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OF THE

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MADE

DURING THE FIRST SESSION

OF THE

THIRTY-FIFTH CONGRESS:

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CASE OF JUDGE JOHN C. WATROUS.

JUNE 2, 1858.—Ordered to be printed, and its further consideration postponed untill Saturday next.

Mr. HOUSTON, from the Committee on the Judiciary, made the following

REPORT.

Resolutions reported by the Committee on the Judiciary, touching the charges against the Hon. John C. Watrous, judge of the district court of the United States for the district of Texas.

Resolved, That the chairman be authorized to report to the House the memorials, answer, and testimony taken by the Judiciary Committee on the charges against the Hon. John C. Watrous, district judge of the district court of the United States for the district of Texas.

Resolved, That the chairman be further authorized to report the two following resolutions offered in committee, each of which failed to receive the sanction of the committee by an equally divided vote, viz :

“*Resolved*, That John C. Watrous, United States district judge for the district of Texas, be impeached of high crimes and misdemeanors.”

“*Resolved*, That, in the opinion of the Judiciary Committee, there are not sufficient grounds furnished by the testimony in the case against Judge John C. Watrous, district judge of the United States for the district of Texas, to authorize his impeachment for high crimes and misdemeanors.”

Resolved, That the chairman ask leave of the House for each minority of the committee to submit their views to the House by Saturday next.

The memorial of Jacob Mussina, of Louisiana, to the Congress of the United States, praying for the impeachment of John C. Watrous, judge of the United States district court for the district of Texas.

To the honorable the House of Representatives of the United States :

The petition of Jacob Mussina, who is, and has been since the year eighteen hundred and forty-two, a citizen of the State of Louisiana, resident in the city of New Orleans, respectfully represents :

That his rights as a citizen have been invaded and trampled on by John C. Watrous, judge of the district court of the United States for the State of Texas, in the exercise of the judicial functions pertaining to the office of judge of the district court aforesaid.

Your petitioner avers that in the year 1847, and at other periods subsequent thereto, he purchased an interest in certain titles to the cities of Brownsville and Point Isabel, and the lands adjacent and contiguous thereto, in the State of Texas, and was in the quiet enjoyment of the same. That while thus possessed—to wit, on the 12th day of January, 1849—a bill was filed before the said Watrous, on the chancery side of said district court, by William G. Hale and Ebenezer Allen, of the firm of Allen & Hale, and as solicitors for Rafael Garcia Cavazos and Maria Josefa Cavazos, his wife, Estefana G. de Cortina, Feliciano de Tijerina, Constantine de Tarnava and Angela de Tarnava, his wife, and Ramon Lafon, minor son of said Angela by her former husband, Ramon Lafon, and Manuel Prieto, citizens of Mexico, against Charles Stillman and others, citizens of Texas.

The bill was duly verified by affidavit, and claimed title to the premises in the complainants, as heirs and assigns of José Salvador de la Garza, by virtue of a Spanish grant made to him in 1781, known as the “Espiritu Santo” grant. It averred that the said grant was bounded by the Rio Grande or Rio Bravo del Norte on the one side, on another by the Laguna de la Madre and Gulf of Mexico, on another by the Arroyo Colorado or Sal Colorado, and on the last by a thicket or dense wood extending nearly from the said Rio Grande to the said Arroyo Colorado, at a point considerably above the town of Santa Rita, on said Rio Grande, and that it contained nearly sixty leagues, so as to include both the city of Brownsville and town of Point Isabel. The bill prayed that the title of complainants be established, that a partition of the premises may be made among them, and that an injunction be issued to restrain the defendants from setting up any title to the premises included within said boundaries, or in anywise interfering with the same.

In the progress of the cause defendants having reason to believe that the said bill, in whole or in part, was filed without the authority of the parties complainant, a motion was made that the aforesaid

solicitors, Allen & Hale, produce their authority for filing said bill. The question was referred to the master, who, having heard the same, reported, June 27, 1849, that the solicitors for the complainants had failed to show any authority to institute said suit.—(See Record, herewith presented and marked A, pp. 673, 683.)

Without any appeal having been taken, the district judge subsequently made an order that Tarnava and wife, Ramon Lafon, (the infant,) Manuel Prieto, and F. de Tijerina be stricken from the bill as complainants, and that they be made defendants upon the agreement of Basse & Hord, representing themselves as their attorneys, "to place upon the record such averments as would recognize the jurisdiction of the court, by acknowledging said parties to be citizens of this State (Texas) for the purpose of this action." This order was made on the 30th of June, 1849.—(See Record A, p. 705.)

But no such averments were made as required by the order; no answers were filed except for Tijerina and Prieto, and no proceedings taken to protect the rights of the infant Ramon Lafon.

Thus, by an order of the court, a falsehood was placed upon the record. This falsehood gave to the court jurisdiction of which the truth would have deprived it.

Your petitioner further shows, that in the progress of said cause, among other depositions taken on the part of the complainants, was that of William G. Hale, the counsel of the complainants, on the 7th August, 1850, which was, upon the hearing, proved necessary to the success of the complainants.

This deposition was set aside upon motion of the defendants, as having been taken without notice, and an order was made to retake the same upon interrogatories and cross interrogatories, the answers to be made in open court.—(Record A, page 805.)

The deposition was, accordingly, taken on 26th March, 1851, and Hale's answers clearly show, not only that he was interested by reason of a contingent fee to be paid out of the proceeds of the sale of the property, but that he held an absolute conveyance from said complainants to himself and partner of part of the property in litigation. A copy of this deposition is herewith presented, marked B.

The defendants, on the 31st of March, 1851, moved to exclude this deposition and other testimony of the said Hale, upon the ground of interest, but said judge, in defiance of all rules of evidence and principles of justice, overruled the said objection.—(Record A, pages 801, 807, 817.)

The principal part of the documentary evidence as to title presented by the complainant consisted in what purported to be translations made from the Spanish, and these pretended translations were made by the said Hale, and were not even sworn to. And he also permitted the said interested party to *withdraw* certain of the original documents and substitute therefor these pretended translations, thus not leaving the originals whereby his translations could be tested. The defendants objected, and this objection was overruled.—(Record A, pages 736, 740, 754, 802, 803.)

The said John C. Watrous also permitted the originals themselves

to be supported by the affidavits of this interested witness.—(See his deposition.)

The said judge also allowed the said interested party, acting as counsel for the complainants, to be a general witness throughout the cause, by suffering him to verify the service of various writs, notices of motion, filing of interrogatories, &c.—(See Record A, pages 732, 740, 758, 769, 771, 803, 804, 805, 815, and Record E, page 219.)

Your memorialist further shows that at the hearing of said cause the complainants offered to establish their title by the examination of Robert H. Hord, who had appeared as the solicitor for the defendants. Your memorialist had discovered that the said Hord, instead of representing the adverse interest to the complainants, had become interested in the title of complainants, who had entered into a fraudulent and collusive agreement with some of the defendants.

The testimony of the said Hord was objected to by the counsel for defendants, on the ground that he was interested for the complainants, and had an interest directly adverse to that of your memorialist. Notwithstanding this interest appeared on his examination, the objection was overruled. The witness was then asked, on behalf of the memorialist :

“Have you or have you not any understanding or agreement with the complainants, or either of them, or their agents or solicitors, in relation to the determination or settlement of this cause, or of any of the matters involved therein, adverse to any interests or rights claimed by Jacob Mussina in any property or rights involved in this suit ; are you or not interested in any such understanding or agreement?”

This question the witness declined to answer, and the court sustained his objection.—(Record A, page 292.)

This cause was submitted to the judge in April, 1851. The next regular term of the court was fixed for January, 1852. Your petitioner, who had filed an answer to this bill as a defendant, and who was at the time, as stated in the answer, and still is, a CITIZEN OF LOUISIANA, (Record A, 292,) was very solicitous in reference to the said decree, and prepared to be present at the succeeding term by himself or attorneys in fact.

It was reported, on information derived from said judge, and believed by your memorialist and the community generally, that no court would be held for the January term, 1852 ; this information controlled the conduct of your memorialist, and he therefore did not attend for the purpose of praying an appeal, in case the said decree should be adverse to him. Yet notwithstanding the statement of said judge in this regard, he proceeded to Galveston at the time of the regular term for holding said court, and then and there pronounced a decree, 15th January, 1852, in the absence of your memorialist, entirely sustaining the prayer of said bill, without doing any other business on the chancery side of said court during the term. Thus, owing to the position and domicil of the complainants, and some of the parties made defendants in said suit, embarrassing, if not entirely defeating, the right of your memorialist to have said cause reviewed in the ap-

pellate tribunal provided by law. In support of which averments, documents are herewith presented, marked C and D.

Your memorialist further represents that on the 1st of November, 1851, he instituted a suit in the fourth district court of the city of New Orleans, in the State of Louisiana, against William Alling, Samuel A. Belden, Charles Stillman, and Basse & Hord. A copy of the petition in said cause will be seen in record A, in which fraud and collusion were charged against the several defendants in the chancery cause aforesaid, for the purpose of depriving him of his just rights. The object of said petition was to hold the parties to an account for the rents and profits received by them on the land covered by the agreement set forth in said petition, and to compel them to make title to said property to your memorialist, and that in default thereof they be condemned to pay a certain sum of money. On the finding of a verdict by a jury on these charges of fraud and collusion, judgment was rendered in said cause on the 8th of November, 1853, requiring conveyances of the said property to your memorialist, and the payment of twenty-five thousand dollars as damages from the said defendants last above named, and that in default of making the conveyances thereof, the said parties should pay the sum of two hundred and fourteen thousand dollars, all of which will more particularly appear by reference to the proceedings annexed to said petition herewith filed. The defendants from this judgment appealed to the supreme court of the State.—(See Record A, pp. 1, 900, 911.)

In order to show the complicity of Judge Watrous with those who in this litigation were in adverse interest to your memorialist, he begs leave to state that the appeal in the New Orleans case was called on the 9th of May, 1855, fixed for trial 16th of May, 1855, continued to the 21st of May, 1855, when it was set for trial on 30th May, 1855, at which time it was argued. The argument occupied two days, and was concluded on the 31st. Judge Watrous arrived in New Orleans on the 30th April, about the time the case was expected to be called, and left on the 3d of May. He again arrived in New Orleans on the 13th of May, and continued there during the progress of the cause, and until the conclusion of the argument on the 31st of May, when he left the city. The appearance of Judge Watrous in the city at the period when this case was expected to be heard, and when, in fact, it was argued, can be regarded of itself, but as a slight circumstance. But this circumstance, and the unfavorable inferences to be drawn therefrom, become important when it is added, that in both instances when the judge visited New Orleans *he attempted to conceal the fact of his presence by requesting the landlord of the hotel at which he lodged not to enter his name on the register of arrivals—the name of John Jones having been entered on the register on his second visit opposite to the number of the room occupied solely by him*; added to which is the fact, that Charles Stillman also arrived on the 13th May with said Watrous, and put up at the same hotel. This Charles Stillman was one of the principal parties charged in said New Orleans suit with conspiracy to defraud your memorialist. It is not necessary that your memorialist should comment on these facts, or draw the inferences to which

they give rise. The facts themselves are proved by the affidavits of the keepers and proprietors of said hotel, herewith filed, and marked F and G. Your memorialist, however, solemnly believes, and so charges, that Judge Watrous' presence in New Orleans was for the purpose of interfering in said cause, and that he did interfere to the great injury of your memorialist.

Your memorialist further shows, that after the rendition of the decree in the chancery case, at Galveston, which decree is to be found at p. 818, Record A, to wit: *on the 18th January, 1854*, he was served, in *New Orleans*, with a notice to show cause, on *1st February*, at *Galveston*, why he should not be attached for contempt in disobeying said decree.

The said contempt consisted, first, in an alleged disobedience of the said chancery decree, and an injunction of said court, when the fact is, and the record (herewith presented, and marked E) shows that said suit, in the fourth district court of Louisiana, alleged as a contempt, was instituted before the rendition of the decree, or the issuing of the injunction referred to; and secondly, in protesting against the payment by the United States of a considerable amount of money claimed under a title supported by a decree, obtained through fraud and collusion of counsel, with the connivance of the presiding judge, in a court without jurisdiction either as to the parties or the subject matter; one of the objects of the said decree, evidently, being to create a colorable title on which the officers of the government might be deluded, with the view of defrauding the government out of the monies due for occupation of part of the land embraced in said fraudulent decree.

At the period indicated, a motion was made to extend the time to answer to the *next rule day*. This was refused by the judge only granting time until the 19th February.

This rule to show cause was served by one William Cornelius, as shown by his return, as follows: "That on the 18th January, A. D. 1854, I exhibited to Jacob Mussina (the party named in the foregoing order) at the counting-house or office of said Jacob Mussina, No. 10 Bank Place, in the city of New Orleans and State of Louisiana, this paper writing, being a copy of an order made by the district court of the United States for the district of Texas, in the above entitled cause, and certified under the seal of the said court, and delivered him a true copy of the same."

Your memorialist avers that he was never a citizen of the State of Texas, and consequently never subject to the jurisdiction of said court in the bill filed in this cause. Considering, however, that the preservation of his rights and their protection against the illegal and arbitrary acts of a reckless and corrupt tribunal, might render it necessary to answer the rule served upon him, he employed counsel to attend to this matter, and an answer was filed to said rule, insisting, among other things, upon his rights as a *citizen of Louisiana*, and objecting that no copy of the motion and exhibits upon which said rule was granted was ever served on him. These objections were overruled. Your memorialist, protesting against the right of the

court to compel further proceedings, made answer, in which he declared:

“That he had never knowingly or intentionally treated with disrespect the laws of any of the tribunals of the United States, and that it has always been his wish and purpose to show all becoming respect to the laws and to all the tribunals of the United States, and that he has never intended to violate or attempted to violate the injunction of this honorable court, and being satisfied that there can be no contempt where none was intended, and not being aware that there has been any disobedience of said injunction since the same was served on him about May, 1852.”

Notwithstanding this full declaration on the part of your memorialist, purging himself of the alleged contempt, it appears that an attachment for his arrest was issued on the 25th February, 1854, directed to the marshal of said district, to which there was the following return:

“Received 25th February, 1854, and having made diligent enquiry I find that Jacob Mussina is, and has been for many years past, a resident of the city of New Orleans, and is not at present, and has not been within my district. I therefore return this writ not executed, he being not found in my district.”

Dated February 27, 1854.—(See Rec. E, 224.)

Your memorialist further shows that pursuing the oppressive and unjust line of conduct which has characterized said court—the said judge has issued a writ of sequestration against the property of your memorialist, the consequence of which will most probably result in the entire sacrifice of his interests in the said State of Texas.—(See Rec. E, 227.)

Your memorialist further represents that said J. C. Watrous, on the 18th July, being a day of the June term, 1853, of the said district court, entered an order directing the marshal not to summon any of the jurymen for the court to be held at Brownsville, from the counties of Cameron, Starr, Webb and Hidalgo, which counties are embraced within the Brownsville district. That in pursuance of said order the marshal selected and summoned such persons as he thought fit.

The jurors were all taken from Galveston or its immediate vicinity—several hundred miles from Brownsville, the place where said court was held.

Your memorialist alleges that these jurors were not drawn by ballot, as required by the acts of the legislature of Texas and according to the provisions of the act of Congress approved 20th July, 1840, and that the said Judge Watrous in authorizing the said marshal to summon said jurors as heretofore stated without their having been first drawn as is required by the laws and practice of the State of Texas, and in excluding as grand and *petite* jurors citizens of certain counties within the district for which the court was held, was guilty of a palpable breach of the law and a direct invasion of the right of trial by jury.

Your memorialist further shows that such has been the position heretofore occupied by the said J. C. Watrous, and such the want of confidence in his integrity heretofore entertained by the citizens of the State of Texas, that on the 20th March, 1848, the legislature of the State, by nearly a unanimous vote, passed the following resolution, which was approved by the governor of the State :

Joint Resolution.

Whereas, it is believed that John C. Watrous, judge of the United States district court, for the district of Texas, has, while seeking that important position, given legal opinions in causes and questions to be litigated hereafter, in which the interests of individuals and of the State are immensely involved, whereby it is believed he has disqualified the court in which he presides from trying such questions and causes, thereby rendering it necessary to transfer an indefinite and unknown number of suits hereafter to be commenced, to courts out of the State for trial ; and whereas it is also believed that the said John C. Watrous has, while in office, aided and assisted certain individuals, if not directly interested himself, in an attempt to fasten upon this State one of the most stupendous frauds ever practised upon any country or any people, the effect of which would be to rob Texas of millions of acres of her public domain, her only hope or resource for the payment of her public debt ; and whereas his conduct in court and elsewhere, in derogation of his duty as a judge, has been marked by such prejudice and injustice towards the rights of the State, and divers of its citizens, as to show that he does not deserve the high station he occupies : therefore,

SECTION 1. *Be it resolved by the legislature of the State of Texas,* That the said John C. Watrous be, and he is hereby, requested, in behalf of the people of the State, to resign his office of judge of said United States court for the district of Texas.

SECTION 2. *Be it further resolved,* That the governor forward the said John C. Watrous, under the seal of the State, a copy of the foregoing preamble and resolution ; also, a copy to each of our senators and representatives in the Congress of the United States.

Approved, March 20, 1848.

On these considerations your memorialist charges the said John C. Watrous, as judge aforesaid, with having acted unjustly, oppressively and corruptly, in the following particulars :

1. In sustaining said bill of complaint after the master had reported that the solicitors of the complainants had no authority to institute the suit, from which report no appeal was taken.

2. In ordering that certain of the complainants, who, by the sworn averment of the bill, were citizens of Mexico, should be stricken from the bill and made defendants by referring on the record that they were citizens of Texas, thus seeking to retain jurisdiction by an order which the record itself showed to be false.

3. In proceeding in said cause, notwithstanding some of the par-

ties mentioned in the order never did make the averment in the record as required by the order, one of the parties being an infant, and in said sworn bill stated to be a material and necessary party, for whom no guardian had been appointed, and who was, consequently, incapable of acting in said cause.

4. In admitting as competent evidence the deposition and numerous important affidavits of William G. Hale, the pretended solicitor in said cause, whose testimony was most material to the success of said cause, when, on the face of his examination, he had a deep interest in said cause.

5. In permitting said Robert H. Hord, counsel for the defendants, and a witness covertly interested, to testify at the hearing of said cause, and sustaining his refusal to answer a proper and legal question, intended to show that he had a collusive interest adverse to your memorialist.

6. In sustaining jurisdiction so as to decree against your memorialist, when his answers, on their face, uncontradicted by any evidence, showed that he was, at the time of filing the bill, and at the time of his answers, a citizen of the State of Louisiana, and not amenable to the jurisdiction of the said district court of Texas.

7. For the manifold errors and irregularities in the conduct of said chancery suit, which errors and irregularities were brought directly to the attention of said judge and permitted, and cannot be accounted for except on the ground of corruption.

8. In causing it to be rumored and believed that he would not hold court at the January term, 1852, and having thus, by deception, thrown your petitioner from his guard, opened his court at the time specified, and delivered the decree in the cause against your petitioner, without transacting any other chancery business at that term.

9. In being present at the city of New Orleans during the argument of the suit brought by your petitioner for the conspiracy and fraud connected with the litigation on the Texas bill, for the purpose of aiding and abetting to obtain a successful result for the defendants in the said former suit; and, in order to escape detection, attempting to conceal his presence in the said city by arrangements with the hotel keeper that his real name might not appear on the hotel register.

10. In causing your memorialist to be summoned out of his jurisdiction, to wit: in New Orleans, to show cause, at the suit of citizens of Mexico, why attachment should not issue, and then refusing an extension of time to answer said rule even until the next rule day, although no copy of the motion and exhibits had been served upon him; and, in attempting to punish your memorialist for a pretended contempt, when no contempt was committed by him, nor any disobedience of any order or decree or injunction of said court.

11. For issuing an order of arrest against the person of this memorialist, and a writ of sequestration against all his property, after he had formally purged himself of the said alleged contempt, and after the power of the court, if any, had thus become exhausted.

12. In ordering the marshal to summon grand and petit juries, without their having been first drawn by ballot, &c., as directed by

the laws and practice of the State of Texas, and as required by act of Congress, and to exclude as jurors citizens of certain counties within the district for which the court was held, and in requiring said marshal to summon and transport said jurors from another and a particular part of the State distant from the point at which the causes in issue were to be tried.

13. For assuming to adjudicate the rights of parties who had never been cited, against whom process had never been prayed or issued, or who had never appeared or answered, in suits instituted by counsel without authority, and thus forcing such parties into ruinous compromises, or an abandonment and entire sacrifice of their rights, or the alternative of an expensive appeal from a court wherein the great seal of the government has been stained and polluted by the issuing of falsified records.

Such, among others, are the causes which induce the memorialist to address himself to your honorable body, and to ask at your hands that the rights of the citizen may be vindicated, and the purity of the judiciary be maintained, by an investigation into the conduct of the said John C. Watrous, under the power which the Constitution of the United States has conferred upon you.

And your memorialist, as in duty bound, will pray.

JACOB MUSSINA.

The memorial of Eliphas Spencer, of Texas, praying for the impeachment of John C. Watrous, judge of the federal court for the district of Texas.

To the honorable the House of Representatives of the United States in Congress assembled :

Your memorialist, Eliphas Spencer, a resident citizen of the county of McLellan, and State of Texas, with due respect represents, that heretofore, to wit, on or about the day of November, A. D. 1847, your memorialist located and settled (under color of title as recognized by the laws of Texas) a certain tract of land, consisting of about 1,920 acres, situated on the left or east margin of the Brazos river, within the limits of the said McLellan county; at which time said tract of land was considered to be a part and parcel of the vacant public domain of said State of Texas, and, as such, was subject to location and settlement by the laws of Texas.

Subsequently a pretended *eleven league* grant to one Tomas de la Vega was attempted to be established, so as to cover the above mentioned tract of your memorialist, but, in consequence of the fact that said *eleven league* grant never was originally based upon an actual survey, the lines and monuments, as called for in said pretended grant, have never been identified; and your memorialist verily believes said purported grant to Tomas de la Vega was obtained through fraud and corruption with the officers of the former government of Coahuila and

Texas, or some person or persons falsely representing themselves as such officers, the evidences of which, to a considerable extent, appear on the face of the said purported grant.

Afterwards, to wit, on or about the first day of May, A. D. 1840, Samuel M. Williams, assuming to be the agent of the aforesaid Tomas de la Vega, avers to have sold said *eleven league* grant to Sophia St. John, and afterwards the said Sophia St. John, and her trustees, M. Menard and N. F. Williams, alleged as resident citizens of Texas, sold said *eleven league* grant to one Thomas M. League, a resident citizen of Texas, on or about the first day of July, 1850, for the sum of

; which said *eleven leagues* of land, as claimed by virtue of said conveyance, was worth, at the date of said deed to Thomas M. League, that is, 1st July, 1850, at least

That the said Thomas M. League, combining and confederating with the honorable John C. Watrous, sole presiding judge of the court of the United States for the district of Texas, for the purpose of falsely, fraudulently, and corruptly adjudicating and determining the validity of the said *eleven league* grant in the court of the United States, in and for the district of Texas, in which the said Watrous was then and there the sole presiding judge, the said Thomas M. League entered into a secret agreement with the said Watrous, judge as aforesaid, by means whereof the said John C. Watrous became entitled to a certain portion of the land, or the proceeds of the sale, upon the determination of the validity of said *eleven league* grant in the court presided over by the said John C. Watrous, as aforesaid.

For the execution of this fraudulent and corrupt purpose, he, the said Thomas M. League, combining and confederating with the said John C. Watrous, falsely, fraudulently, and corruptly to give jurisdiction of the suit or suits above contemplated, he, the said League, reserving an interest in said *eleven league* grant for himself and the said Watrous, sold, apparently, the entire interest and property of the said *eleven league* grant to one John Lapsley, a resident citizen of the State of Alabama.

Afterwards the said Lapsley, acting in concert with the said League and the said Watrous, brought suit in the federal court of the United States, having and exercising the powers and jurisdiction of a circuit court, in and for the district of Texas, at Galveston, wherein the said John Lapsley is sole plaintiff, representing himself as sole owner of the said *eleven league* grant, against your memorialist, and other occupants and claimants of the land pretended to be covered by the said *eleven league* grant, he, the said Watrous, being then and there the sole presiding judge of said court.

Said suit was filed in said court on or about the eleventh day of January, A. D., 1851, and remained pending in court from that time until about the day of December, 1854, when the interest of the said Watrous in the subject matter of said suit was detected and became publicly known. In the meantime various orders were entered in said cause, as well as in other causes pending in said court, wherein the said John Lapsley was plaintiff, for the assertion of the validity of said *eleven league* grant, and others than your memorialist

defendants—the said honorable court acting therein as though no such interest as afore mentioned existed in the said John C. Watrous.

Afterwards upon the detection of the interest of the said John C. Watrous, he, the said Watrous, judge as aforesaid, caused an order to be entered on the minutes of said court changing the venue of said causes to the circuit court of the United States for the eastern district of Louisiana, at the city of New Orleans, based upon the then admitted interest of said John C. Watrous, sole presiding judge in the matter of controversy.

Wherefore by reason of the fraudulent and corrupt conduct of the said John C. Watrous, judge as above stated, your memorialist and the other occupants and claimants of said land have been unjustly and fraudulently deprived of the benefit of the jurisdiction of the court of the United States for the district of Texas—the place of their domicil, and subjected to great trouble, hazard, and expense in being compelled to defend their rights, the title to their homes, in the said court at the city of New Orleans, in the suits instituted by the said Lapsley as aforesaid; thereby committing a gross fraud upon your memorialist and the other occupants of said land, to their great and irreparable injury, as also committing a fraud upon the jurisdictions of said court.

Your memorialist would further represent, that he had located and settled upon said land as aforesaid long anterior to the bargain and corruption of the said Watrous as aforesaid, and that some of the claimants of the said land held by a regular chain of title from the government of Coahuila and Texas to colonists.

That the possession of the said occupants of said land has been open, notorious and generally known to be adverse to all other claims, and was so generally known long before the bargain and corruption of the said John C. Watrous, judge as aforesaid.

That the titles and color of titles under which, and by virtue of which, said occupants claim said land, have been open, and notorious, and spread upon the public records of the county long anterior to the bargain and corruption of the said John C. Watrous in the purchase of an interest in the said *eleven league* grant as aforesaid.

That the titles of some of the occupants of said land have been sanctioned and confirmed by public acts of the Congress of the republic of Texas, and subsequently by public acts of the legislature of the State of Texas, all of which matters above stated he, the said Watrous, had full notice and was fully apprized long anterior to his said purchase of an interest in the said *eleven league* grant as aforesaid.

Wherefore from the premises your memorialist deduces and prefers the following charges against the said John C. Watrous, sole judge of the federal court in and for the State of Texas.

1. That John C. Watrous while he was the sole presiding judge of the federal court of Texas, acquired secretly and under cover of another man's name, an interest in the *eleven league* grant, purporting to have been granted to Tomas de la Vega, by the government of Coahuila and Texas, by the alcalde of San Felipe de Austin, L. Lessas-sier, on the fourth day of October, A. D. 1833, situated in McLellan

county and State of Texas, with notice that the land pretended to be covered by said *eleven league* grant was in the actual adverse possession, under a claim of title of your memorialist and other persons, claiming title to said lands.

2. That the said John C. Watrous, while judge as aforesaid, made the purchase or acquired an interest as aforesaid, with the understanding and intention of litigating and determining the validity of said *eleven league* grant in the federal court of Texas, of which he was the sole presiding judge.

3. That the said John C. Watrous, judge as aforesaid, counselled and procured the entire apparent legal title to be made to a non-resident of the State of Texas, thereby to confer jurisdiction on the federal court of Texas to hear and determine any suit that might be brought to test the validity of said *eleven league* grant.

4. That suits brought in the federal court of Texas on or about the 11th day of January, A. D. 1851, in the name of John Lapsley, a resident citizen of the State of Alabama, as sole plaintiff against your memorialist and other occupants of said land, in all consisting of eleven different cases, for the recovery thereof, by virtue of said *eleven league* grant to Tomas de la Vega, in which said suits various orders were made, he, the said Watrous, being then and there the sole presiding judge.

5. That said John C. Watrous, judge as aforesaid, while said suits were pending in his court, as aforesaid, for and during nearly four years, fraudulently and corruptly concealed his interest in the subject matter of litigation.

6. After the detection of the interest of said Watrous in said suits, he caused an order to be entered of record therein, changing the venue of said suits to the fifth circuit and eastern district of Louisiana, city of New Orleans, wherefore by means of the fraudulent and corrupt conduct of the said Watrous, judge as aforesaid, the defendants in said suits have been put to great trouble, hazard, and expense in attending to the defence of their rights in the said suits in the said city of New Orleans.

7. That after the removal of said suits to the said circuit court of the United States in the city of New Orleans the title of the plaintiff to the said *eleven league* grant was attempted to be sustained, among other documents, by virtue of an instrument in writing purporting to be a power of attorney from José Maria Aguirre, Thomas Vega, and Rafael Aguirre to Samuel May Williams, dated at the city of Leona Vicario, republic of Mexico, on the 5th day of May, 1832, which said instrument is a forgery, and known as such to the parties offering the same, all of which was done with the previous knowledge, advice, and assent of the said J. C. Watrous, judge as aforesaid.

Wherefore, your memorialist prays that the conduct and proceedings in this behalf of said Judge Watrous may be inquired into by your honorable body, and such decision made thereon as to your wisdom and justice shall seem proper.

And your petitioner, as in duty bound, will pray.

E. SPENCER.

George S. Houston to John C. Watrous.

WASHINGTON CITY, D. C.,
January 8, 1858.

SIR: Memorials of Jacob Mussina and Eliphas Spencer, praying an investigation into your official conduct as United States district judge for the district of Texas, having been by the House of Representatives referred to the Judiciary Committee, I am instructed by the committee to notify you that those memorials, and the subject-matter embraced in them, will be taken up for investigation and action on the first Tuesday in February next, it being the second day of said month.

Very respectfully, your obedient servant,

GEO. S. HOUSTON, *Chairman.*

Hon. JOHN C. WATROUS,
Galveston, Texas.

Mr. Watrous to Judiciary Committee.

NATIONAL HOTEL, January 22, 1858.

SIR: I most respectfully ask to be informed whether, at the approaching investigation by the committee of which you are the chairman of the charges against my official conduct, I may be permitted to be present, together with my counsel. And I also desire to be informed whether the investigation will be confined to the testimony against me, or will be extended to all sources of information which are necessary to a proper understanding of the case, and will enable the committee to come to a determination which will preserve the public justice and do no violence to my rights as an individual, who must be presumed to be innocent until the *whole testimony* shall remove that presumption. Should a full and fair investigation of *both sides* of the case be determined on, I should take great pleasure (if permitted to do so) in furnishing to the committee a list of witnesses, whose testimony will put the whole case before the committee, and lead their minds to a correct conclusion.

I have the honor to be your obedient servant,

JOHN C. WATROUS.

The Hon. CHAIRMAN,
Of the Judiciary Committee, &c.

JUDICIARY COMMITTEE ROOM,
January 26, 1858.

Resolved, That Hon. John C. Watrous be informed that the Committee on the Judiciary will, on Tuesday, the 2d day of February,

1858, take up for investigation and action the memorials of Jacob Mussina and Eliphas Spencer, and that the committee will receive from the said John C. Watrous at any time previous to the said 2d day of February any explanation in writing relative to the charges contained in said memorials, and that after having made such communication in answer to said charges, the said John C. Watrous will be permitted by himself or counsel to cross-examine witnesses who may be examined before said committee.

ANSWER OF JUDGE WATROUS.

The memorial of Jacob Mussina is based entirely upon my rulings in a certain case in which Cavazos was plaintiff, and he and others the defendants. In this case, Mussina was one of the losing parties. The decree was against the defendants. It is very natural that he should complain. Such things are very common, for "no one e'er felt the halter draw with good opinion of the law." The proper tribunal to revise these rulings is the Supreme Court. If he had gone there—if he had suffered wrong and proved it to that august tribunal—he, most certainly, would have obtained redress. I may have fallen into error. I claim no exemption from the common lot. If there be proof of error in this record, and that is apparent to this committee, then there arises another inquiry—that is, Whence does it proceed? From weakness of judgment—from want of clearer vision? or from improper motive—from depravity? If from the first, no punishment can follow; it is a misfortune, not a fault. If from the last, nothing should keep the arm of justice from falling on the guilty head. What motive could I have for injuring the memorialist? I have never even seen him. He is to me an *utter* stranger. With Simon Mussina I had a slight acquaintance before the commencement of the suit which has caused this investigation. My feelings towards him were of the very kindest character; not on his own account, but because of his being the brother-in-law of the Rev. Isaac Henderson, who for many years was stationed as a missionary at Galveston, and broke the bread of life to that people during the darkest years of our revolutionary struggle. If he is not the best man in the world, he is very near it. I am sure a more devoted servant of his risen Lord is not on earth. I was indebted to him for many kindnesses, and my gratitude to him, to this day, is deep and glowing. On account of his relationship to this good man, when I entered upon the trial of the case, it would have afforded me a high degree of pleasure to have found such a case as would have entitled him to a decree. I knew no other of the parties to the case. Cavazos, in whose favor I finally rendered the decree, I still am not acquainted with. The trial of the case was exceedingly disagreeable. Mr. Mussina changed his counsel repeatedly during the progress of the cause. This made it necessary for me to permit the same ground to be travelled over as new counsel came into the cause. I permitted the case to be argued three times, if I am not mistaken, and extended to the multiplied and ever-changing counsel every indulgence which I could with propriety grant. During the progress of the cause, I perceived that Mr. Hale had prepared himself with more than his accustomed care; and I have never seen him come up to the argument of a cause without being well prepared. I as soon perceived that the counsel for the defence were not prepared as well as they might be. Mr. Ballinger, a gentleman of very distinguished ability, during the progress of the case, apologized for his want of

preparation, and stated that he had recently come into the case. I have his brief, and it evinces great haste in the preparation. The other counsel for the defence, to the best of my recollection, furnished me no brief. I am prepared to defend every ruling that I made against Mussina. I believe them all to be correct. But suppose they were not, would the error afford ground for an impeachment? Is it required of a judge always to be right, at the risk of punishment and disgrace? Is this the tenure by which he holds his office? Is there to be no allowance made for the infirmity of the human mind?—for the frailty of mortal judgment? Why are courts of appeal established, but upon the assumed certainty of honest mistakes in the court below? In the absence of all proof of *improper motive*, I respectfully suggest that he has mistaken his tribunal. It is in the other wing of the Capitol. The complaint about Mr. Hale's testimony is *greatly* urged and evidently *confidently* relied on. I made that decision with great deliberation. Its admission was made after a careful examination of the authorities most approved in the law. It rests on decisions made by men the foremost in a profession of which they were at once the pillars and the ornaments. The objection to the testimony was on the score of interest in the witness. I ask the close attention of the committee to the disclosure made by Mr. Hale in relation to his interest. Let it be taken in the most unfavorable light, and it discloses a remote, a *very* remote, contingent interest *only*. Can any interest be conceived more contingent than that which depends upon the successful issue of a large number of land suits in Texas, each one depending upon its peculiar state of facts and law, and when the learning necessary to a complete understanding of the principles which govern them is attained only by laborious industry, pushing its investigations through various codes of law and systems of jurisprudence unknown to any other section of our country, foreign to our habits of thought, and clothed in a language not our own! These things all being considered, I ask, with confidence, can an interest be imagined more remotely contingent than that which depends upon the successful termination of *all* these suits, and which is defeated by the failure of a single one.

And then I would ask, with the greatest humility, how often and how many times is this process to be repeated? Is it never to have an end? Am I to be called here, two thousand miles from my home, over and over again, to defend myself against the very *same* charges? Am I to be called off from the discharge of my duties to the public, and waste my time and means in the refutation of charges once met and scouted, but again put in requisition by an *unsuccessful* litigant in the court over which I preside? Is there no remedy? no relief from such a grievance? If there be, I ask for its intervention. If there be none, I must bear the evil as I may. I ask for the most careful examination of the record, to detect, if possible, the slightest evidence of unkindness or oppression. I have never had the *least* desire to injure this man. In his treatment of me he has evinced the very concentrated essence of malignity. He has hurried poor old Spencer on to a position where he must retire from what he

offered to swear in New Orleans, and what he has put in his memorial, or subject himself to the terrors of a criminal prosecution. He has caused the newspapers of this city and New Orleans and New York to teem with abuse of me. He has brought a suit against me in New York, and charged me, under oath, with owning a part of the Brownsville property, procured by being the recipient of a bribe. He has besieged the halls of Congress for three sessions, and has disgusted gentlemen with his ceaseless importunities for my impeachment. He has stated repeatedly that he will pursue me for twenty years, and boasts of his means to annoy me. All these things have no terrors for me. I mention them only to show the spirit of this miserable prosecution. I repeat, I have never had the least desire to injure him. To the retributions of the future I leave him, and do not so much as bring "a railing accusation against him." I only seek to defend myself; and how far I shall be compelled to go, will depend upon himself. I submit that the rulings, as far as Mr. Hale's testimony is concerned, are correct, and such as I was constrained to make. The question as to Mr. Hale's testimony was made before the committee in 1852. It played a prominent part on that occasion. It was pressed upon that committee with *much vehemence*. It was fully debated by Mr. Volney E. Howard, at the time one of the representatives from Texas, who assisted Mr. Alexander and my counsel, Judge Hughes, and myself.

The committee deliberated upon the question, and decided, without a dissenting voice, that the testimony was properly admitted; that the interest disclosed was a contingent one, and went to the credibility, and not to the competency. I submit that it is quite time for this ghost to quit "visiting the glimpses of the moon." One word only as to the ruling as to the testimony of Mr. Hord. He was offered by Mr. Hale, and his examination objected to on the other side. Upon being examined as to his interest, he stated that he was interested on both sides, but stated that the preponderance of his interest was against the plaintiff, who sought his testimony. He was clearly competent. He was asked as to his interest and his engagements against his co-defendant, Mr. Mussina. He objected to answering the question, and said he would prefer braving the utmost rigors of the law to being forced to answer any question propounded by such a man as Mussina. It was nearly the hour for the adjournment of the court. I doubted whether the question was competent, and replied to Mr. Hord that I would reserve my decision until the next morning, when, if I came to the conclusion that it was a legal question, he *must* answer it. I came to the conclusion that he was not bound to answer the question; that he was a competent witness for Mr. Hale, if he chose to waive his objection; that, having waived the objection and made him a competent witness, he had a right to his testimony, and it was not in the power of any one to defeat that right. Should a contrary doctrine prevail, a combination of two co-defendants with each other, or some one else, might defeat a plaintiff, in spite of the rule of law intended for his protection. Subsequent reflection has satisfied me of the correctness of the ruling. I have

proposed the question frequently to the most distinguished jurists of my acquaintance, and I have not found one who doubts. But if it were not correct, where is the proof that the mistake is not an honest one? The memorialist seems to have fallen into the error of supposing that if there be an error in the record, *that* is sufficient to remove me from office and subject me to disgrace. The decision of this committee will stand on different ground. When the argument of the case was closed, and the case about to be submitted to me for decision, some one of the counsel for the defendants stated to the court that it was so desirable that the case should be speedily decided, that some of the defendants would prefer the rendition of an adverse decree to having the case postponed to another term. I inquired whether Mr. Mussina agreed to such a decree, and was answered that he did not. On his account, and his *alone*, I took the case under advisement. It was a very peculiar case. It depended upon a construction of the Spanish law—not the general principles of that body of law, but the local law—the powers of the ayuntamiento, a court of limited jurisdiction, and somewhat analogous to a county court under the system so common in the southwest, when acting upon local police regulations. It involved, also, the investigation of the powers of the political authorities of the corporation of the city of Matamoros and the state of Tamaulipas. However conversant a judge in the United States may be with the general provisions of the civil law, he cannot be supposed to be familiar with questions arising upon the construction of laws so local in their character. At any rate, I did not pretend to be acquainted with them, and it was necessary for me to examine, especially as an amount so large was at stake; and for the further reason that I was informed that I had been so unfortunate as to have incurred the displeasure of Mr. Simon Mussina, who was very busy in taking notes, with the avowed intention of attacking me in the public prints—what had, at that time even, become very fashionable with unsuccessful candidates for acres, and their counsel, with high contingent fees and prurient hopes, which it frequently became my ungracious duty to disappoint and shatter into fragments. I did take the case under advisement, and did decide it at the January term, 1852, as I had promised and appointed. The plaintiff's claim rested upon a royal grant to the land, and an uninterrupted possession, *clearly proved*, for more than seventy years. The defendant's claim was based upon an alleged abrogation of that grant by the authorities of the city of Matamoros and of the State of Tamaulipas, and a dedication of a part of the land to public purposes as *exidos* or commons of the city of Matamoros, of labor titles derived from the authorities of that city, and locations under the republic of Texas. The peculiar character of the questions presented will at once appear from this slight and imperfect statement, and the great necessity of careful investigation to insure a correct decision.

I had determined to visit Washington during the winter of 1852, and request an investigation of the charges preferred against me by Mr. Alexander. I frequently spoke of that determination, both publicly and privately, which caused inquiry to be made whether the

term of the court would be holden in January, 1852, or not. Clients and counsel inquired of me. The knowledge of the fact was necessary to the government of their course in the management of the business before the court. I *invariably* stated that I would hold the court, but I would not force any one into a trial before a jury; that if in any case both sides were ready, and wished a trial, I would grant it. I made this statement, among others, to Judge Hughes, Mr. Ebenezer Allen, to Mr. Robert Hord, to Mr. Francis J. Parker, to Mr. John S. Jones, who was at that time the deputy clerk, and doing the business of the clerk of the court. I made the same statement to Mr. J. A. H. Cleveland, then and now the deputy marshal, and doing the business for his principal. He made the inquiry in order, as he stated to me, to ascertain whether he should make the usual requisition for money to defray the expenses of the court, and if a requisition was necessary, to ascertain the amount. He says that I told him that I would hold the court, but should not have a jury, and that he regulated the amount of the requisition by this statement. If there were those who consulted the rumors in the public streets, and took them for the guides of their conduct, I am not to be held responsible. Mr. Merriman, whose deposition goes furthest to sustain the statement that I said I would hold no court, states that he now recollects that I told him that I would not *force* any party into trial, but that I would try cases where both parties wished it. How could this be if there was to be no court? Mr. Merriman did not state the fact, because his attention was not called to it. He was not cross-examined. *As usual*, it was done without my knowledge. I had no notice. The first I knew of it was when I met it in the remarkable production of nine hundred pages, which has printed at the head of each page, in malicious conspicuity, "Impeachment of Judge Watrous." When Mr. Merriman made the statement I presume he was not aware of the use for which it was intended. He is a gentleman of high character and standing at the bar and in social life, and is one of the very last men in the world to lend his aid to any left-handed attempt to injure or defame his neighbor. There is now no discrepancy between the statement which he will, upon mature reflection, make, and that of the other witnesses whose names I have mentioned.

If the committee will take the trouble to refer to Mr. Mussina's deposition, in the book of nine hundred pages, the importance of the qualification will at once appear. It changes the aspect of the case *entirely*. I never said that I would not hold the court. I never made any statement of *any* kind for the purpose of preventing the attendance of Mussina, or of affecting his right of appeal. It was not within the compass of my power. I should as soon have thought of attempting to prevent his growing older. The law gave him this right, and no contrivance of mine could, by possibility, prevent its exercise. His brother, Simon Mussina, has sworn before the supreme court that I declined to give him an appeal, although repeatedly applied to. I have *contradicted* the statement in a return to a rule issued from the supreme court. That return was made under the solemn sanctions of my official oath. It is supported by the affidavits of gentle-

men in Galveston. I beg leave to refer to that return and those affidavits as a part of this my answer, and will, if permitted to do so, furnish attested copies of these documents, as they are found upon the files of the supreme court. I never thought of him in connexion with that term of court, save when an examination of the case which I had under advisement, or some other casual circumstance, reminded me of his existence. According to the terms and time of the previous adjournment, I did hold the court; and just before the adjournment I pronounced the decree. Mr. Atchison, his attorney, or rather his solicitor, had notice of the decree, and objected to it, because Mr. Volney E. Howard, who was at Washington, had not been notified. That, as I believe, was the only objection that was made by him at the time I proceeded to render the decree. I am not aware of having said anything from which it could be fairly inferred that I intended it to be understood that I had seen Mussina at Austin, and he had agreed to the decree. If I had made such a statement, it would have been a very *silly* lie; and no one who heard it would, for a moment, have been deceived by it, for no one would have believed it. I had just returned from Austin, where I had held the court, and Mussina was in New Orleans, and it was well known that no kind of social intercourse existed between us; that his conduct had driven us from "pole to pole asunder." What inducement had I for telling so stupid a falsehood? Was it, as it is intended to be understood, my object to lead the astute counsel of Mr. Mussina astray, and prevent his giving notice of appeal in open court? That gentleman shows that he knew such notice was unnecessary by his applying to me for the appeal in chambers. I may have said that those who represented Stilman and Belden were willing to have the decree rendered against them rather than have the case postponed. They so expressed themselves in open court, when the argument of the case was ended, and it submitted for decision, and repeated that statement at Austin. But Mussina had not agreed to that, but had refused to agree, and that refusal impressed upon me the necessity of taking the case under advisement, as I had not time to investigate the merits of the case during the continuance of that term. When the decree was rendered, I had no further business to detain me at Galveston. I was about to take the steamer for Brazos St. Iago, on my way to Brownsville, where I had to hold court. I directed the marshal to keep the court open, to keep a bailiff in attendance in the court room until 12 o'clock at night, with instructions to call me from my office, which is only a few feet from the court-house, and I should come at any time to give Mr. Atchison the opportunity of entering his notice of appeal, or take any other step he might think advisable in the case. This order I made in the presence and hearing of Mr. Atchison, that he might have no possible cause of complaint. The marshal informs me that he stayed himself in the court room until it was so late that he thought it very unlikely that any one would come. He then retired. He opened the court the next day, and kept it open until I came into the court-house, when the steamer's bell was being rung, signed the minutes, adjourned the court, and walked from the court-house to the

steamer just as she was leaving the wharf. If this statement be true, and I most solemnly aver that it is, what is to be thought of this whole prosecution? This charge is entirely essential, for if it fail the whole case must fail with it, and the charge of interference with his right of appeal must fall to the ground. Were not two days and one night a sufficient length of time to keep the court open for the purpose, and *only* the purpose, of giving counsel the opportunity of entering the notice of appeal? I could not extend the indulgence further; I was compelled to leave the town in the discharge of my official duties. If I had been disposed to defeat Mr. Mussina's right of appeal, I am not so stupid, not so ignorant of the law, as to take the steps with which I am charged. It would have been entirely unavailing. The time limited for taking an appeal is five years. There is no place so remote within the boundaries of christendom to which notice may not be conveyed in five years. Certainly it could in that space of time be given to a party living in Matamoros or its vicinity, between which place and Brownsville there is an almost hourly communication. But even this was unnecessary. Mr. Hale, the agent and attorney for the plaintiffs, in whose favor the decree was rendered, resided, and still resides, as does also his partner, Mr. Allen, in Galveston; and I had supposed that no lawyer could be found so ignorant of his profession as not to know that notice to either of these gentlemen would be sufficient for all the purposes of the appeal; and the case is *now pending in the supreme court, and has been for more than a year, upon an appeal taken by one of Mussina's co-defendants, Shannon*, upon a notice given in vacation to Mr. Hale, and upon a citation signed and a bond approved by me. If Mr. Shannon could take an appeal, and has actually taken it in this way, what should prevent Mussina? How, then, have I rendered the taking of the appeal "difficult, if not impossible?" The whole idea is preposterous in the extreme, and needs but a moment's reflection of the merest *infant* in the law to expose it *utterly*. It is painful to be compelled to answer such absurdities, and I hope the committee will excuse me, when they reflect upon the circumstances which render such an infliction upon them unnecessary. As far as the memorial complains of my attempts to influence the supreme court of Louisiana in the decision of a case in which he was a party, I hardly know whether to treat it seriously. It is too absurd and ridiculous to merit or require refutation. The case was pending before the supreme court. The charge of improper out-door influence is directed against the judges of that court, rather than myself. I am not acquainted with any member of that court, and have never spoken to one of them in my life. I take it for granted, from the high station they occupy, that they are gentlemen of elevated character. Would they permit themselves to be improperly approached? Suspicion of the integrity of judges seems to be the infirmity of Mussina's mind. When I came to the city of New Orleans I knew nothing of the trial of Mussina's case. I did not know that it was approaching. It was not mentioned to me by any one during my stay in the city, nor do I believe that I ever thought of it during that time. Mussina is really of much less

consequence than he imagines. I do not spend my *whole* time in attention to his concerns. It is true I did see Mr. Stilman at the hotel. I am informed that he was not a party to the suit. I understand the process was never served upon him. We met but once, and had no conversation together. The ordinary salutations between gentlemen when they meet was all that passed. Mr. Mussina's name or his case was not even mentioned by either. Our interview occurred in the public parlor of the hotel, and did not occupy one minute of time. I saw him no more while I was in the city. I did not know that he was in New Orleans until I met him casually at the hotel. There was not the slightest understanding or concert between us. I did not know what brought him there, nor do I now know. When I came to the hotel I desired the clerk, Mr. Ensign, to give me a room, without putting my name on the register, and I stated the reason of the request. It was this: that, if put upon the register, it would appear in the papers of the next morning, and be seen by the members of a family who were very intimate with mine, and they would be hurt when they found that I had been in the city and had not called on them. This was the reason given to Mr. Ensign. Upon my making this statement, the clerk wrote the name of John Jones opposite the number of my room. This is the revelation of the mighty mystery. As far as secreting myself is concerned, a paragraph appeared the next morning in the *Delta* announcing my arrival at the Verandah. Who procured its insertion, or how it came there, I do not know. Several gentlemen, now in this city, during my stay at the hotel, called on me; so that, if I wished to conceal myself, I succeeded very poorly in the attempt. When I returned to the city, after an absence of about two weeks, I gave no directions as to the entry of my name upon the list of arrivals, and whether my name was put there, or that of John Jones, I do not know. I was sick when I returned to the city, and went immediately to my room, where I remained until, by the directions of my physician, Doctor Morse, I was carried to the steamer and taken to Galveston, the cholera at that time being very fatal in New Orleans. There was no concealment of my presence at the hotel. It is true I kept my room, for I was at the very point of death; and when the physician directed my removal, he stated that he could do no more for me, and that my departure from the cholera-infected atmosphere of the city was absolutely necessary. I did nothing about Mussina's case during my illness. I do not believe that I even thought of it. My situation was too awful to permit my thoughts to dwell on any such subject. In the immediate prospect of approaching death, I had no time to think of Mussina or his controversies. I did not even know that his case was to be argued before the court. I had nothing to do with the affair, and I took not the slightest interest in it. In the proceedings against Mr. Mussina for contempt, I was compelled to take the course I did, or permit the authority of the court to be derided and despised.

The committee will search in vain in the record for any disavowal of the acts complained of. There is, indeed, a disavowal of all design of offering a contempt to the court, but there was at the same

time a defiant and wilful persistence in and even an attempted justification of the *acts*. Are such things to be tolerated? Is a party to be permitted to escape the merited inflictions of the law by the use of these dulcet words, and be upholden in his resistance to the constitutional authorities of the land? Is it enough that he avows the existence of proper respect for the courts, and then defeats the effect of that avowal by a continuance of the offensive acts? Must not the courts insist upon the observance of their decrees in acts as well as words? I submit to the committee that the course I took was the only one I could take without consenting to an entire abrogation of my authority. It was *strictly legal*. Upon this I insist with the most undoubting confidence. My conduct has been complained of as "oppressive and tyrannical." How? Mussina's person has not been touched; he has not been within the reach of the process of the courts. He came in and answered to the rule by his counsel, and thereby subjected himself to the action of the court. His answer was unsatisfactory, and the issuance of the writ of sequestration was a matter of course. It has been returned by the officer appointed to serve it, "No property found." With neither his person nor his property affected by the rulings or the process of the court, how has he been injured? "Upon what meats does this our Cæsar feed, that he's become so great?" I submit to the committee that he has been treated with an unusual and unprecedented degree of mildness and forbearance. He has other cases now before the court—one bill in chancery at least, which was demurred to upon the ground that a trustee, a necessary party, was not before the court. Ordinarily, when a party occupies the position that Mussina does before the court, his cases and his defences are stricken off the dockets and files of the court; his cases are entirely disregarded. But I permitted him to stand, and decided the demurrer as I should have done in ordinary cases. I gave him sufficient length of time to amend his bill by making the trustee a party. I ask each member of this committee, composed of lawyers, whether he has ever, in all his practice, known an equal degree of indulgence extended to any one who stood in that attitude before the court? Is it the case that judges will permit a cause to be prosecuted or defended by a party whose contempt for the court is unpurged and unatoned for? And still I did permit it. I determined, if the parties or the counsel of the parties opposed to Mussina did not urge the objection, I would not raise it, preferring, if I erred at all, it should be on the side of indulgent lenity. I erred, and it is the only error with which I can reproach myself in my dealings with this troublesome man, and I hope the motive which induced the error may plead my excuse. Other charges in the memorial of Mr. Mussina relate to rulings upon points of practice. I shall not review them, but content myself with the statement that they are all correct, and a very slight acquaintance with chancery pleadings will put the question at rest forever. As to the method of empanneling juries in the court, the law requires a compliance with the State law as far as *practicable*, and that has always been done.

A literal compliance with the State law is entirely *impossible*. The

jury lists cannot be obtained from the different counties. Repeated efforts have been made, and always without success. The taking of jurors from other parts of the district to Brownsville is the result of the peculiar state of things there, and was done at the request of gentlemen of the Brownsville bar. The petition was fully sustained by affidavits. But it will be asked, whence comes all this discontent? Why are these repeated attempts to remove Judge Watrous made? Why did the legislature pass resolutions requesting him to resign? I will mention two things which have exerted a powerful and controlling influence in the production of this controversy. One is the statute of limitations; the other, titles to land within the border and littoral leagues. That these questions may be understood and their influence appreciated, I will explain them in as few words as possible. It is a fact known to every member of the committee that the Texas revolution commenced in 1835; in 1836 or 1837 there swept over the United States a financial crisis of almost unexampled severity. It was felt in every part of the Union, and many debtors in Mississippi and Louisiana emigrated to Texas, carrying with them their negroes, and leaving their debts unpaid. Upon many of these negroes liens had been given, and which followed them to Texas. A gentleman, by the name of Stafford, removed his negroes to Texas, more than a hundred in number. They had been mortgaged to the Union Bank to secure the payment of about eighty thousand dollars; the mortgage covered a tract of land also in the parish of Rapide. That mortgage followed Mr. Stafford to Texas, and was there when the United States court was organized in that State. A bill was filed on the chancery side of the court for the purpose of enforcing the lien created by the mortgage, and subjecting the negroes to the payment of the debt—a proceeding equivalent to a bill in equity brought in a common law court or country to foreclose the equity of redemption. The bill was accompanied by an affidavit of the solicitor that he had applied for process in the courts of Texas and had failed to get it, although he had offered security which was undoubted in its character. It was also stated that Mr. Stafford had declared that he would remove the negroes to Mexico before they should go the payment of that debt. I granted the process asked, and ordered the negroes to be put into the hands of a receiver. A motion was made by Mr. Stafford's solicitors that he should be permitted to take the negroes into his possession upon giving a good and sufficient bond. The motion was repeated and urged again and again. I overruled it each time. I pledged myself to grant the motion if, in the multiplicity of cases in which receivers had been appointed in courts of chancery, a single case could be produced in which such a motion had been granted. No such case was produced or can be. It involves the evident absurdity of appointing an officer to take charge of property and then removing the property from his possession. A receiver is an officer of the court appointed to take and keep possession of property, and his possession, while it lasts, is the possession of the court. This ruling gave great offence. It was denounced with great vehemence as taking from Mr. Stafford a right guaranteed

to him by the sequestration law of the State—a right to replevy personal property when seized for debt by giving a bond in double the value of the property.

This would have been his right on the law side of the court, and I should have accorded it to him without hesitation. But upon the chancery side that law had no force. The chancery practice is governed, not by the State law, but by the rules of the Supreme Court of the United States and the practice in England. While the storm which had thus been raised was raging, the plea of the statute of limitations was interposed by Mrs. Stafford, against whom, as well as her husband, the bill had been filed as his security for the payment of the original debt. The construction of the statute which was contended for was that the statute began to *run as soon as the debt became due*. This construction would have protected the Staffords. On the other hand, it was contended that the statute did not begin to run from the maturity of the contract, but from the time the party pleading it had been within the jurisdiction of the court. The latter construction I adopted, and decided that it did not protect the party pleading it, because she had not been within the jurisdiction of the court four years, the time limited by the statute. Colonel Cuny, the brother-in-law, as I am informed, of Mr. Stafford, an emigrant from the same parish of Rapide, whose debts from the same State have since followed him, and been sued in my court, was a member of the senate of the legislature of Texas, and introduced into that body the resolutions asking me to resign. It will be at once perceived what an array of influence such a decision as I had made under such circumstances would at once create. How much of the wealth of the country was affected by the decision as I made it, I have not the means of ascertaining, nor how much as it was represented and reported, for I was not permitted to be present. Reports the most unfounded, rumors the most absurd, were circulated by interested malice, until, in the whirl of excitement thus artfully produced, the resolutions were passed just at the breaking up of the session of the legislature. It was stated, as I am informed, that I refused to recognize the law of the State as the rule of decision in any case; that I had abrogated, as far as the federal judiciary was concerned, the law of limitation; that I had no Texas feeling and no sympathy with Texas in their struggles growing out of their old debts; and to crown the whole, and make my *infamy complete*, it was reported and believed, and acted on, that I had, at that time, in the land office at San Antonio de Bexar, fourteen hundred rejected land certificates. The records of the court in every case where the State law has ever been relied on contradict this statement. It is known to be untrue by every member of the bar who has ever practiced before me; and the last charge is refuted by the fact that I never owned a head-right of any kind in my life. I have never even proved up my own. If the record of the testimony taken before the committee in 1852 had not been destroyed, I could by that record substantiate these facts. No notice was given to me; no opportunity to explain or to defend myself, or to contradict and disprove the many rumors which had been

so industriously circulated to my prejudice, was afforded me. The right of being confronted by my accuser, of being informed of the accusation against me, and of being heard in my defence—rights guaranteed by the Constitution and the laws to the meanest culprit charged with an offence, were denied to me. In no country in which the English language is spoken has this case a parallel. In this worse than star-chamber manner was I condemned, unheard and undefended. I should, indeed, “lack gall to make oppression bitter”—I should be lost to all the noble impulses of our nature, and sunk to that point where manhood ends and the brute begins, if I failed to record my most indignant protest, even at this late day, against a procedure so unprecedented and cruel. This wrong cannot be righted. What hand shall tear the leaf from the records of the country? At what bidding shall this act cease to be remembered? Even Omnipotence itself cannot annihilate “the unrelenting past.”

And all this occurred in this land of boasted constitutional liberty and law. It was under such circumstances that these resolutions were passed. This was not the reason assigned by the legislature. The reasons given in the preamble to the resolutions are too transparent to deceive even the dullest apprehension. They are glass, and can be seen through by the weakest eye.

It will be borne in mind by the committee that at the time these resolutions were passed I had tried but two cases. A recent examination of the records of the court enables me to state this fact with perfect certainty. There had been a few judgments by default, in which there were no defences, but there had been but two trials before and verdicts of a jury, and one of them involved the construction of this statute of limitations, and had been the subject of complaint by another honorable senator, (Mr. Abbott.) The first cause assigned in the preamble to the resolutions is, that while seeking the office I had given opinions which would render it necessary to transfer an indefinite and unknown number of causes, hereafter to be commenced, out of the State for trial. These resolutions were approved on the 20th of March, 1848. Not one single case has been transferred, which transfer was made necessary by the opinions referred to; and as ten years is the very longest period of limitation in Texas, in a very few days it will be impossible that any one ever shall be. The next cause assigned is, that I had assisted in an attempt to fasten on Texas a stupendous fraud. This was brought before the committee in 1852, and all the testimony on the part of the prosecution, but not on my side, heard, and the result of my examination was my entire and complete acquittal by the unanimous decision of the committee. The testimony showed that I had been employed by a company of gentlemen in New York to argue for them a case in which the title to lands was involved. These lands were covered by certificates from the different boards of land commissioners. The names were genuine, and they were the officers of the government, properly appointed. Under these circumstances it was contended that these boards of commissioners were courts of exclusive, though limited, jurisdiction; that they were authorized to hear testimony and decide

who, under the law, was entitled to lands ; and that their certificate made and extended to the party under such circumstances was conclusive and binding upon the country—as much so as would be the authenticated record of any court of competent and acknowledged jurisdiction—and from their decision an appeal was given if their decision was against the claimant. This right of appeal, it was contended, clearly marked the judicial character of the transaction ; and was it ever heard or dreamed of that an appeal was ever allowed except from a judicial act ? I was employed to argue these cases before the court of Texas, being at that time at the bar. But no suit was brought till after my appointment to the bench, and other lawyers were selected to take my place. One of them was Mr. George Wood, of New York, who argued the case before the supreme court. For these facts the committee will have to trust my word or permit me to adduce the proof ; for at the end of that investigation no pompous book, headed “Acquittal of Judge Watrous,” was given to the world, sanctioned and sustained by the House of Representatives. No version of the testimony was printed by authority, although it was taken down by a stenographer employed and paid by the government. The testimony has not even been preserved. The archives of the government have been searched in vain to find it. It did not suit the views and feelings of certain gentlemen, and it has perished from the earth.

The third and last reason is, that my conduct in court and elsewhere, in derogation of my duty as a judge, has been marked by such prejudice and injustice towards the rights of the State and divers of its citizens, as to show that I do not deserve the high station I occupy, “therefore,” &c. Under this head there are no specifications what my conduct out of court was which called down upon my devoted head such severity of reproof. They have not seen proper to inform us. What conduct of mine “in court” could have been “marked by prejudice and injustice towards the rights of the State,” it passes my comprehension to understand.

The State was not a party litigant in that court. It could not be. It could neither sue nor be sued there. This charge must show to all reflecting minds the utter recklessness with which it was made. It shows, too, to what desperate straits the accused was reduced to find a specious covering to conceal his real motive and to keep it out of view.

I should have much more respect for the manliness which should have disclosed the real cause of the assault. As to the “divers citizens” whose right had been improperly invaded, they must, of course, be the defendants in the only two suits which I had tried. Can it for a moment be supposed that, in trying these two very ordinary suits, I could have been guilty of such enormous outrages as to call for or to justify this anomalous and this clandestine mode of procedure ? The mystery is solved by the simple fact that the decision of one of the cases involved the construction of the statute of limitations, to which so many of the emigrants to Texas had looked as a sure and certain protection against those creditors whom they had left behind,

and who were so unreasonable as to follow them into the country of their adoption, and commenced suits upon the liens which had been created upon the property to secure the payment of these debts. It was, indeed, a just subject of complaint that the statute of limitations was not declared to be a sponge to wipe out all the debts of the citizens of Texas. If I had put the construction on the statute required by the exigencies of the case and the popular cry; if I could have been driven from my position by any of the means resorted to; if I had consented to surrender my reason and my judgment, and to tamper with my conscience and my oath, these resolutions would never have been heard of, and I should have glided smoothly down the stream of popular favor, and have been enabled to taste the "froth from every dip of the oar." But enough of this reason; and I pass to the other, the land titles within the littoral and the border leagues. The littoral leagues are upon the entire seacoast. They embrace the whole sea front of the State, and reach ten leagues into the country from the sea. The border leagues embrace the whole frontier upon the line of a neighboring nation by twenty leagues into the interior of the country. They embrace a very great portion of the wealth of Texas, as will be very readily perceived. Over a large portion of this very extended country, titles procured from the former sovereignty (Mexico) had been located. Many of them were grants from the State of Coahuila and Texas, the residue from the general government. To some grants the assent of the general government was required to make their location within the littoral or border leagues good and valid. Was it necessary to all? Over a great portion of this wide extended section of country, of such great present and prospective value, there had been located two classes of claims; a grant from the State of Coahuila and Texas, and a head-right claim from either the State of Coahuila and Texas, from the republic of Texas or the State of Texas. Both locations could not prevail. Which should fail was a question of fearful magnitude. As he ranged himself upon one side or the other of these questions depended the fate of every man, as far as the question of public office or political preferment was concerned. To be for the old grant was destruction; to espouse the side of the locators upon it was the road to prosperity, for on that side, of course, were found the masses, for there were many more who owned head-rights, soldiers' bounty claims, &c., than there were who owned the old and larger grants. The decision of the question involved a construction of the fourth article of the general colonization law of Mexico, which is in these words: "There cannot be *colonized* any lands comprehended within twenty leagues of the limits of any foreign nation, nor within ten leagues of the coast, without the previous approbation of the general supreme executive power."

On one side it was contended that, by a correct construction of this law, it applied to contracts of colonization *only*, and did not apply to purchased grants, which, by the provisions of the law, could be owned by Mexicans alone; while, by contracts of colonization, foreigners were introduced into the country, and thus could be located on the frontier or on the coast, and might become dangerous

in the event of a war with a foreign nation. It was contended that the letter of the law and the policy of the nation united to uphold the construction which declared the assent of the general government necessary to contracts of colonization *only*. That that was the correct interpretation of the terms used, and that while public policy would prevent an accumulation of foreigners upon the coast and upon the frontier, it could not be supposed that it was intended to make it a desert. On the other side, it was contended that the assent of the general government was necessary to contracts of *every* description, and without it the grant was void. I shall not attempt in this place to argue the question. I merely state it for the understanding of the committee. The immense, the fearful magnitude of the question will be at once perceived. It has, from the very first, agitated the public mind, and entered with its overwhelming force into the estimate which is put upon every man in Texas occupying a public station, more especially upon the bench. In all countries, controversies about the soil are invested with peculiar interest, and in Texas more than in any country. Most of the early emigrants there were the victims of an adverse destiny. They left their own country, driven by a fate too hard to be borne, and too stubborn to be conquered. They came with the hope of retrieving their shattered and almost desperate fortunes. Land was the object and condition of their emigration, the end of their hopes, and the means of their advancement and improvement.

Thus it is that in Texas controversies about land appealed to the strongest passions of our nature. They smite upon the human heart, and rouse the tides of intense feeling to their profoundest depths. In this case, also, I was so unfortunate as to arrive at the unpopular conclusion. I decided that the assent of the general government was necessary to a contract of colonization *only* that a purchased grant was good without it. I thus ran counter to the popular current in both instances. My little barque was shattered and almost lost on both these rocks. I stated, when I delivered the opinion in the last case, that I was perfectly aware that I had dug the grave of all hopes of preferment, if ever I had entertained any; and if I escaped social annihilation, it would be by miracle. When this and kindred questions about lands in the littoral and border leagues are finally settled and adjusted, I shall be permitted to repose in quietude and peace, and it will no longer be the fashion for every unprincipled unsuccessful suitor in the court, and every personal enemy, to make the Congress of the United States or the legislature of Texas the means of venting his spite or wreaking his vengeance on Judge Watrous. I was so unfortunate as on each of these questions to differ in opinion with the judges of the supreme court of the State. Those gentlemen, for whom I entertain, and always have entertained, the most profound respect, came to different conclusions upon both these questions. It never interfered with our personal relations. With one of them, who has gone to his enduring reward on high, (Judge Lipscomb,) I lived on terms of strict and endearing friendship for more than a quarter of a century. The only consolation, except the

approbation of my own conscience, which I have amid the gathering gloom, is, that both the questions have been decided by the Supreme Court of the United States, and their decisions ratify and affirm my own. To quiet the title to the lands within the border leagues, an act was passed by the congress of the republic of Texas in 1841, which should not pass unnoticed.

The acts proceed upon the assumption that these old grants are fraudulent and void. It requires of the holder of a grant within the border leagues to commence an action in the county where the land is situated within one year after the act goes into operation. If he neglects to bring such suit he is forever barred ; his rights are gone. If he does commence suit, it is made the duty of the district attorney for the district to appear against him, and together with any counsel employed by any one who may see proper to interfere and resist his claim. If, under these circumstances, before a jury of such a vicinage, he proves a compliance with all the conditions of the grant, and gets a verdict in his favor, he is entitled to the judgment of the court. The question of the constitutionality of this law was raised before me. I was again compelled to breast the storm. I decided the law to be in conflict with the provisions of the Constitution, upon the grounds, among many others, that it involved the exercise of judicial power by declaring, by act of Congress, the grants to be fraudulent and void ; that it was partial in its operation, because it applies to a particular class of grants only ; that it applied to a particular part of that class—those located in a particular section of the country, the border leagues—while it left others of the same character in other parts of the country to be decided by a different rule. On account of these provisions of the law I was unable to support it. I shall not argue the question here. I shall merely state that my convictions of duty compelled me to pursue the course I did. It seems to me, if it had been the design of the author of the law to produce one at war with the Constitution in every sentence and in all its provisions, it would have been difficult to have produced one which would better have fulfilled the design. The Constitution required the exercise of legislative and judicial power to be kept separate and distinct—committing one to Congress, the other to the judiciary. It forbade the passage of any law impairing the obligation of contracts, and required judicial proceedings to be according to the course of the common law. If these words, if these provisions of the Constitution are to receive the interpretation which the same words have received when construed by those great minds who are regarded as the luminaries of the law, their meaning cannot be doubtful ; and a very unpleasant duty was again imposed upon me, a duty which I could not avoid, and the discharge of which I could not decline. It may be asked, “Why did you go upon the bench and meet the decision of these vexatious and unpopular questions ?” When Texas was annexed to the United States, I was in Philadelphia seeking the restoration of my enfeebled health. I was determined to go upon the bench if I could procure the appointment, and remain while the business was being matured. I hoped that my health would be restored by that time, and I would retire. I gave a

statement of my design to Judge Webb and General Rusk. Almost with the first business of the court, when I had tried but *two* cases, this attack was made upon me, and I was requested to resign. Resign! and thus seal my own infamy forever! Resign! and thus endorse the truth of the slander with which I had been assailed, consign my memory to infamy eternal, bring disgrace upon my family and upon a name which has never been connected with dishonor. If the alternative had been inevitable of resigning under such circumstances my commission or my life, I most certainly should have given up the last. Under such circumstances, I should have considered it the very greatest misfortune to be compelled to live.

Spencer's memorial contains three material facts :

1st. That I was interested in the purchase of a tract of land in Texas.

2d. That I, while suits were pending in my court for and during nearly four years, fraudulently and corruptly concealed my interest in the subject-matter of litigation.

3d. That after the removal of said suit to the circuit court of the United States, in the city of New Orleans, the title of the plaintiff to the said eleven leagues grant was attempted to be sustained, among other documents, by virtue of an instrument in writing purporting to be a power of attorney from José Maria Aguirre, Thomas Vega, and Rafael Aguirre, to Samuel May Williams, dated at the city of Leona Vicario, republic of Mexico, on the 5th day of May, 1832, which said instrument is a forgery, and known as such to the parties offering the same—all of which was done with the previous knowledge, advice, and assent of the said J. C. Watrous, judge as aforesaid.

I now proceed to state the facts which, if I am permitted to do, I will prove by the most indubitable testimony.

Mr. League came into my office and told me that he had an opportunity to make a speculation. That he had purchased a tract of land upon the Brazos river, but he feared that he would not be able to pay for it. I told him that I had friends in Alabama who would furnish the money necessary, if they could be induced to think the prospect good for realizing a profit. He told me of the tract of land, the La Vega tract, nearly opposite Waco, upon the Brazos. I asked him about the title. He told me that it had been pronounced good by Judge Hughes. I was willing to trust to Judge Hughes' opinion. It was agreed upon between Mr. League and myself that we would write to Alabama and endeavor to engage my friends in the enterprise. There was then pending in the supreme court of the State a case of exactly such a title, in which I was interested by a contract made before I entered upon the bench. I stated to Mr. League my entire confidence of success, and my expectation that the decision of that case would end all further controversy about that class of claims. That if we should be compelled to sue, we should have that case for a decisive antecedent, and should be in no danger of loss. Mr. League and three gentlemen from Alabama went up and examined the land and determined to purchase it. Mr. League stated to me that he believed there would be no litigation about the purchase.

That the only question that would arise was as to the number of acres some persons were entitled to who were upon the land and holding under our title by the consent and procurement of our vendor, which would be amicably arranged. I agreed to join the Alabama gentlemen in the purchase. I was to get a certain part of the land by paying a certain amount of money at a certain time agreed upon between us. Mr. League was to be entitled to a like portion of the land upon the same terms and conditions, for which we executed our obligation to Mr. Lapsley. It was a fair bona fide sale to Mr. Lapsley, with the interest of others reserved in the contract. The legal title was vested in Mr. Lapsley. The deed was made to him, and he had the entire control by means of the deed. Mr. Lapsley furnished the money with which Mr. League's vendor was paid. The case in the State court was decided in our favor, as I had anticipated. The opinion of the court was delivered by Judge Wheeler; Judges Hemphill and Lipscomb agreed with Wheeler in the decision of the case, but each gave an opinion as to their view of the law of forfeiture, which prevented the opinion producing that quiet upon the subject of land titles which had been anticipated. I was anxious, when it became necessary to sue, that the litigation should be had in the courts of the State, and inquired of Judge Hughes how much money it would take to bring the suit and commence the litigation in the State courts. He stated to me that two hundred dollars would be enough, and I paid him that amount for that purpose out of my own pocket to insure the certainty that the litigation which I had not anticipated, but which had now become necessary, should be had in the courts of the State. I have been informed by Judge Hughes that he did so bring the suit. But Mr. Lapsley, who had control of the matter by reason of the legal title, was unwilling to trust the decision to the State courts, and wished the decision of the Supreme Court of the United States, and directed the suit to be brought in the district court of the United States at Galveston. About this movement I was not consulted; it was done without my procurement or consent, and against my known and expressed wish. The first I had to do with this litigation was when I found the cases upon the docket of the court. What was I to do? The law pointed out the course. I had the interest; I could not divest myself of it. I was most unwillingly brought into contact with the cases. At the first call of the cases, at the very first practicable moment I disclosed my interest and refused to make any order of any kind or character in them, and the statement in the memorial that I concealed my interest for four years and made orders in them is directly, positively, and wickedly false. *The record at Galveston shows the contrary to be true.* There never was the least attempt at concealment of my interest in the purchase. I spoke of it frequently and freely to my friends, and in the *original agreement there is a stipulation that the contract shall be recorded in Alabama and in Texas.* Whether it was so recorded or not I do not know, as I never had the custody of the paper. When I refused to try the cases, an agreement was made to select some one who was to preside over the trial as an arbitrator, and the verdict of the jury was to be had under

his instructions, and the judgment of the court was to be entered on that verdict as in ordinary cases. But that agreement was made the means of continuing the cases from time to time, for four years, when an application was made for the transfer to the circuit court of Louisiana, which order I made. It was the *first* and *only* order I ever made in the cases, and is in exact obedience to the law. No one ever hinted or suggested that my connexion with the purchase was in anywise improper. It was brought to the notice of the committee who made the investigation in 1852, and they, without any explanation from me, refused to hear testimony in the matter, and said *Judge Watrous had as good a right to buy land as anybody else*. I was living upon a salary of two thousand dollars a year, with a large and expensive family to support, and I had to procure means other than those which I received from the government or State. Under these circumstances it would be, as it seems to me, indeed, the *summum jus* to deny me the right which is accorded to every citizen. This is the only contract for property of any sort that I have made since I was so unwise as to go on the bench. And I submit that it is not an *official* act, and it is only those acts which are connected with the discharge of official duty which can be reached by the peculiar process of impeachment; all other acts must be left to the action of the ordinary tribunals of the country. I admit, if a judge, or any other incumbent of an office under the government, should be convicted of the commission of crime, he might, in consequence of that conviction, be impeached and removed from office; but he must first be indicted and convicted. He could not be tried in this manner, in the first instance, for any but *official* misconduct. Now, the only official act of mine on the whole transaction is the order for the removal of the cause, and that is not only legal, but an act of peremptory and incumbent duty. The other charge is, that on the trial, at New Orleans, a forged power of attorney was offered by the parties, knowing it to be forged, which was done with the previous knowledge, advice and assent of the said John C. Watrous. Now, I never saw that power of attorney, nor any other of the title papers in the cause. But there is on the file, in the circuit court, in New Orleans, the testimony of Juan Gonzales, the regidor before whom the power of attorney was executed, which proves its genuineness beyond all controversy and all debate. There was testimony before Judge Campbell, who tried the case in New Orleans, sufficient to satisfy the judge and jury of the genuineness of the instrument, and upon it the case was decided, and is now pending in the supreme court. The testimony of Gonzales has been taken, since the trial of that cause, in the circuit court, in a cause still pending there, and is perfectly conclusive. Mr. Spencer's words will hardly suffice to overrule all the testimony, and convict me and several others of a felony. The committee will bear in mind the fact that the purchase of the lands was made upon the opinion of Judge Hughes. I had such confidence in his opinion that I did not examine the title, and I have never, to this day, seen the power of attorney or any other of the title papers on the cause. I have read the statement in the memorial with astonishment at the unblushing hardihood of its wicked

ness. Judge Hughes is in the city, in attendance upon the Supreme Court, and I respectfully ask that he may be called before the committee. He is one of the most distinguished lawyers in Texas, and had been practicing before the court almost ever since its existence in the State, and he will be able to corroborate or contradict any statement, and also to afford much information about the whole investigation. He is at the United States Hotel.

Much complaint is made about Mr. Spencer being deprived of the benefit of a trial in the Texas courts. Is not the chance for justice as great in a circuit court, presided and holden by an associate justice of the supreme court, as it is in a district court? Are the chances of a fair and correct trial lessened by the presence of that high functionary? or could not as able lawyers be found in the city of New Orleans as in Galveston or Austin? But it may be urged that the distance rendered the attendance of witnesses inconvenient and expensive. The testimony in the courts of the United States, by the law of their organization, is brought in almost entirely by deposition. In this case the defendant, Spencer, had no parole testimony. His presence was unnecessary; and if he saw proper to take the trouble to attend the court upon the trial of the case, that was more than compensated by the presence of a most distinguished judge of the Supreme Court of the United States, which advantage he gained by the transfer. If I had important cases to be tried, I should consider myself peculiarly favored by any chance that brought them before Judge Campbell. That advantage Spencer gained by the transfer, and that, too, with none or at most with very inconsiderable disadvantage and expense.

In the Texas court a district judge presides. The benefits of the circuit court system have not been extended there. Whence this great preference for a court in Texas? Entertaining the opinion that he and his prompter seem to entertain of me, I wonder he did not rejoice at any change which sent his case away from me. Or does he complain of Mr. Lapsley for bringing his suit in a court created to give more residents—a court free from local influence? I trust it will not be deemed improper for me to say a few words about the transactions of the last session of Congress connected with these memorials. I am informed that members of that committee regarded their duty to be that of a grand jury, and refused to hear or examine any testimony save that which was against me. If such was not their character and functions, they erred in rejecting the testimony offered by my friends. If such was their character, why was the testimony which had been produced against me given to the world, sanctioned and approved by Congress? Is it usual for the testimony offered to a grand jury to be published to the world, and that, too, after the indictment found by them is quashed by the court? for, it will be borne in mind by the committee that the resolution recommending my impeachment was rejected by the House. I mention these things in no improper spirit. It is only for the purpose of protesting against their repetition. I have been taught in a rough school, but I have learned important lessons. I have, through it all, retained a sure reliance upon

the ultimate prevalence of truth. Before this committee I have no misgivings ; I invoke the closest scrutiny—the most rigid examination, *especially* of my motives. Whatever may be their issue, with that I shall be content. I have suffered long and much. I trust that I am near the end, and life and hope revive within my bosom. This storm will pass away. These clouds will break, and on the evening of my life will “sweet quiet shed its sunset.”

JOHN C. WATROUS.

JUDICIARY COMMITTEE ROOM,
February 18, 1858.

Whereas, it appears from the record of the case of Joseph Ufford vs. Josiah Dykes and al., instituted in the district court of the United States for the district of Texas, printed with the other papers during the last session of Congress by order of the House, that the Hon. John C. Watrous presided on the trial of the said case, and proceeded to render a judgment in the same, on or about the 27th day of February, 1855, in favor of the plaintiff;

And whereas, it appears from the said record that the title of the said plaintiff depended, among other things, upon the existence of a valid power of attorney executed by Rafael de Aguirre, José Maria de Aguirre, and Tomas de la Vega to Samuel M. Williams, under which the plaintiff's conveyance from the grantee was made, and that the said power of attorney is the same under which the conveyance from Tomas de la Vega was executed, by which means the said Hon. John C. Watrous had an interest in the question as to the existence and validity of the said power of attorney in consequence of his being, or claiming to be, a part owner of a tract of land held under it;

Therefore, be it

Resolved, That the attention of the said Hon. John C. Watrous be directed to that fact, in connexion with the pending investigation, and that he be allowed to make any explanation or answer in writing with respect to the same on or before Tuesday, the 23d proximo.

Answer of Judge Watrous with reference to the case of Ufford vs. Dykes.

With reference to the case of Ufford against Dykes, to which my attention has been called, I have to state these facts :

Three Mexican citizens, Rafael de Aguirre, Thomas de la Vega, and José Maria de Aguirre, petitioned the government for a concession of land to each ; the concession was made, not of thirty-three leagues to the three together, but of eleven leagues to each. The lands were obtained by a common agent. The grants were made separately to each of the petitioners. The grant to La Vega was a separate grant, entirely independent of the grant to Rafael or José Maria de Aguirre, and located in a section of country distinct and remote from the loca-

tion upon Williamson's creek. Upon the trial of the case before me, there was no intimation from any source of the least impropriety in my trying the case. Judge Hughes, the sole counsel in the La Vega grant, was the leading counsel in the case of Ufford *vs.* Dykes, and controlled its management. He appeared for the defendant, who claimed adversely to the title derived through the grant to Aguirre. If there had been any impropriety in my trying the case, would it not have occurred to him or to his associate? I had never seen any of the title papers in the La Vega case or in this; I knew nothing about either title. I have not to this day seen the La Vega title papers; I know nothing of there being a power of attorney common to both cases. The power of attorney was not read upon the trial; it was admitted by agreement of the counsel. There had been a judgment, by default, in the case; upon the motion of Mr. Hartly, who had not before been of counsel in the case, I set aside the judgment by default upon the affidavit of a person who I very confidently believe was not a party to the suit. Was not this going a great way to protect the interests of these defendants? If I had desired to injure them, I had only to refuse to interfere in their favor to effect my object; and surely the weakness of the grounds presented by the affidavit of an intermedler in the suit would have afforded me an ample excuse for not interfering. And it will be remembered that the application addressed itself to the discretion of the judge, and my refusal to interfere would have been conclusive, and the rights of the defendants forever barred. But, for the purposes of justice, I interfered and set aside the judgment by default, and opened the case for the interposition of any defence which might happen to exist. I submit to the committee, that my conduct shows anything rather than a desire to injure these defendants. If I had known the facts, and had been aware of the true character of the power of attorney, that it was common to this and the La Vega case, in which I had an interest, I, from motives of delicacy might, perhaps, have refused to have gone on with the trial. But suppose I had taken a different course, and had tried the case, how would my interest have been affected by the decision? How could I gain or lose by the issue of the trial? How could the pecuniary interest of any one connected with me by consanguinity or affinity be reached or affected by the decision? It could not have been read as evidence—it could not be cited as authority in any other case. There would not have existed the most remote probability that Judges Campbell and McCaleb, who were to try the La Vega case in New Orleans, would ever have heard of the decision; there is still a more remote probability that they would have been influenced by the ruling if they had heard of it. But, be that as it may, it is quite sufficient that the testimony shows that I made no rulings upon the power of attorney; it is, therefore, not needful to inquire whether the rulings, if they had been made, would have been right and proper, or the reverse.

JOHN C. WATROUS.

EXAMINATION OF ROBERT HUGHES.

TUESDAY, FEBRUARY 23, 1858.

In the matter of the investigation of the charges against the official conduct of Hon. John C. Watrous, United States district judge for the district of Texas, Robert Hughes, having been summoned to attend the committee as a witness, was sworn, and being examined by Judge Watrous, testified as follows :

Question, (by Judge Watrous.) State all the facts bearing on the memorial in this case, particularly as to the power of attorney executed by Rafael de Aguirre and others to Samuel M. Williams ; what were the circumstances about it ; and did I ever see it ?

Answer. I cannot say that Judge Watrous did not know of its existence, but I can state the circumstances from which I concluded that he did not know of it. When I was in my office, about the time the land in the suit of *Lapsley vs. Spencer* was in controversy, Mr. League came there to see me, and presented the title papers, and said that it was agreed to have them submitted to obtain my opinion on the title, and that he and Judge Watrous would make an arrangement regarding the purchase with some friends in Alabama in case I pronounced the title good. I examined the title, beginning with the title of possession or the grant, then the power of attorney from the grantees, Tomas de la Vega and others to Samuel M. Williams, and then the conveyance from Williams, as attorney in fact of Tomas de la Vega, to Maynard and Nathaniel F. Williams, for the benefit of Mrs. Sophia St. John. Upon examination I believed the title to be good, and so gave my opinion, with directions to have a more perfect conveyance executed by Samuel M. Williams. Upon that opinion I am satisfied, from conversation with the parties, that the purchase was made by Mr. League, and then an agreement with Mr. Lapsley and others in Alabama, by which the land was conveyed by League to Lapsley, the parties in Alabama having an interest of one half, and Thomas League and Judge Watrous to have the other half interest, upon their paying their proper proportion of the purchase money agreed upon. In the whole of the transaction I never, to my recollection, had any conversation about the title with Judge Watrous. From the time the conveyances were made, and the arrangement with the parties in Alabama, down to the trial of the cases in New Orleans, except for a short time, the title papers were in my possession. I never showed them to Judge Watrous. He never asked to see them, because he said he had more confidence in my judgment in the matter than in his own, and therefore he would willingly abide by whatever conclusion I should arrive at. Mr. League was the person to whom they were given whenever it became necessary for him to have them, as, for instance, to take them to the county of McClelland to have them recorded there. I had conversations with

Judge Watrous occasionally up to the time the suits were commenced, and subsequently about the land, but never did communicate to him anything about the state of the title. In the spring of 1850 some gentlemen came on from Alabama, and Price and two or three others went up to examine the land; and on their return, Mr. League, who had changed his residence to Baltimore, and Judge Watrous, I believe, went to Alabama together. Judge Watrous was absent for a long time, but I cannot say how long. I can say, further, that I never consulted Judge Watrous about the commencement of the suits, or the examination of the titles, or anything regarding the matter, because I believed myself to be entirely under the control of John W. Lapsley, who had the legal title and the whole control of the prosecution of the claim. I commenced the suits in the district court of the United States by the direction of Mr. Lapsley.

Question. Where did the power of attorney, referred to in your answer, come from?

Answer. At the time the papers were delivered to me, a copy of the power of attorney was also delivered to me, and that copy was made and certified by the Spanish clerk in the general land office of the State of Texas. Some year or two after I had commenced the suits, I went to Austin and found the original in the land office; and as papers of that description had been decided by the supreme court to be private papers and not public records belonging to the land office, and there being an act of the legislature of the State authorizing the withdrawal of all such papers from the land office, I applied to the commissioner of the general land office, and withdrew the original power of attorney for the interest of the party for whom I was acting. It has been in my possession, or that of League, until the time of its being filed in the suit of Lapsley *vs.* Spencer, in New Orleans.

Question. What time was the contract you speak of made for the land?

Answer. It was late in the spring or early in the summer of 1850.

Question. What time did you bring the suits you refer to?

Answer. In January, 1851.

Question. Had I anything to do with bringing these suits in the federal court?

Answer. No; because I considered that I was under the control of the holder of the legal title, John W. Lapsley, or his agent, Thomas M. League.

Question. After these suits were first brought, did I request that they should be brought in the State courts, and did I furnish you the necessary funds for doing so?

Answer. You did; and I brought them accordingly, and they are still pending there.

Question. By what direction or at whose procurement have you prosecuted these suits in the federal court?

Answer. By the direction of Mr. Lapsley. He told me, by letter, when the suits were commenced, that if litigation was to be had they

should be brought in the federal court, as he was a citizen of Alabama and had the right to bring them there.

Question. In the cases in which Mr. Lapsley was plaintiff, when did I announce from the bench my interest in the subject-matter of the suits?

Answer. The suits were commenced on the 11th day of January, 1851, and at the first term or, at the furthest, the second term thereafter, Mr. John Taylor moved the court, in the cases in which he was concerned as counsel, for an order of transfer to Austin. All the cases were on the docket. When asked to transfer the cases to Austin, Judge Watrous said that he was interested, and that he could make no order in them. I think that Mr. Taylor was counsel in all these cases, except the Spencer case.

Question. Was this the first time I was called upon to do anything in these cases?

Answer. Yes; that is my recollection.

Question. Are you acquainted with the case of Hancock *vs.* McKinney?

Answer. Yes.

Question. Was this case decided about the time you refer to?

Answer. I think it was decided in December, 1851, or in January, 1852.

Question. Do you know whether that case was looked to as a leading case to decide questions in this class of claims; and do you know that it would decide these questions?

Answer. Upon all the most important questions arising upon titles of possession or grants of eleven leagues, that case is a leading one, so far as it goes. Its authority was impaired by the opinions of Chief Justice Hemphill and Mr. Justice Lipscomb, delivered in the same case; but however the case appeared to be limited by these opinions, the limitation was disregarded in subsequent cases.

Question. Do you know that I stated that the case you refer to would decide questions in this class of claims, and end litigation?

Answer. I do not recollect.

Question. Was that power of attorney, in the case of Ufferd *vs.* Dykes, read to me on the trial?

Answer. I do not believe that it was, because Mr. Hale, I think, had no copy of the power of attorney, and it was necessary, in order to maintain the case, to show a claim of title from Rafael de Aguirre to the plaintiff; and having examined the power of attorney myself, I believed it to be, on its face, a good power of attorney, and I furnished Hale with the copy I had, and no objection was made to it on the trial. I was counsel for defendants, and Mr. Hale for plaintiff.

Question. Was that power of attorney admitted, or not, by agreement between the counsel?

Answer. I cannot say that it was admitted by express agreement, but it was by tacit agreement, no objection being made to it.

Question. Was any question made as to that power of attorney on the trial?

Answer. I cannot answer in the affirmative clearly and distinctly;

but I can say this: Mr. Thomas Hughes was the original counsel for the defendants; he was a young man, residing at Georgetown; Mr. Hartley and myself, in the order named, were subsequently employed as counsel; and at the trial, believing that no substantial objections could be made to the power of the attorney, I insisted that Messrs. Thomas Hughes and Hartley should not object to it; and I believe that no objections were made.

The examination of the witness was here adjourned.

ROBERT HUGHES.

WEDNESDAY, FEBRUARY 24, 1858.

The examination of Robert Hughes, a witness before the committee in the matter of the investigation of the charges against the official conduct of Hon. John C. Watrous, was resumed; and the witness, being examined by Judge Watrous, testified as follows:

Question. Why did you let in the power of attorney in the case of *Ufferd vs. Dykes*, without objection?

Answer. I did so to prevent a continuance, and because I believed it to be a good power of attorney.

Question. Why did you delay making the motion to transfer the cases to Louisiana so long?

Answer. It was partly for the purpose of awaiting the settlement of questions in cases of that kind, and of less importance with regard to value in the courts of Texas and of the United States; and as soon as the most important of these principles were settled, I proceeded with that case. And there was another reason: when the case was first called at Galveston, or about that time, to obviate a difficulty as to the interest of Judge Watrous, it was agreed between the counsel and myself that a gentleman of the bar should be selected to take Judge Watrous' place on the bench, and try the cases and settle the questions of law. While the cases remained at Galveston they did not carry out their agreement; and at the term preceding the term at which the cases were transferred to New Orleans, Mr. Taylor agreed that, if I would continue the cases at that term, the agreement should be carried out at the next term. But at the next term he refused to perform the agreement, and I then moved for the transfer; and it was accordingly made.

Question. By what means were the cases transferred from Galveston to Austin?

Answer. The fact was, that it was done by agreement between the counsel of plaintiffs and defendants, and upon application of defendants' counsel; and because it was the duty of the judge to have transferred them, if he could have made any order in them according to law.

Question. Are you counsel in the case of the heirs of Watrous *vs. Magrew et al*?

Answer. I am principal counsel.

Question. When cases have been presented to me involving questions in which I had an interest, have I not, as far as you know, always declined to try them?

Answer. I do not recollect but three cases, besides those we have been referring to, in which Judge Watrous was in any way concerned. One was a case, lately decided in the supreme court, of *Dodswell vs. De la Lanza et al.*, in which Judge Watrous' brother, in his lifetime, made a location on the land in dispute; that location, however, was not involved in that suit; but Judge Watrous said that he was one of the heirs of his brother, and could not sit on the case. Judge Watrous, as he afterwards informed me, withdrew the location from the land and tried the cause. The next case I refer to was that of *Power vs. McGinnis*. In that case the question was one arising on the right, under the laws of the republic of Texas, to make locations on the islands; and in that question arising as to another island, Judge Watrous was interested and refused to try the case; and Mr. Hale and myself made an agreement, by virtue of which we waived all question regarding the validity of the location, and left the question open to be decided by the supreme court; and Judge Watrous, being no longer interested in the questions arising under that case, tried it. The third case I refer to I do not recollect the names of the parties to; but it was one in which the question was as to the validity of a grant having but one assisting witness, instead of two; and to settle that question the parties, by their counsel, selected John B. Jones to go on the bench in the place of Judge Watrous; and he went upon the bench and decided the question. These are all the cases I recollect in which Judge Watrous was interested.

Question. Are you, or not, counsel for the heirs of my brother?

Answer. I am.

Question. Are you not intimately acquainted with all my business, my land titles, and everything connected with my property in Texas?

Answer. I have no doubt but that Judge Watrous has told me all about his business, and that I know all the property he owns, and mostly the state of title of the whole.

Question. What time did you come to Texas?

Answer. I settled in Texas about the 28th of March, 1848.

Question. Have you been extensively engaged in practicing in the court over which I preside?

Answer. I have been practicing in that court all the time, and I have had a fair share of practice.

Question. Are you not employed in almost every land case in that court?

Answer. I think that I am employed in most of them.

Question. From your knowledge of the business of the court, your relation to it, and from the intimacy between you and myself, and your connexion with my own business and the business of my brothers and sisters, as heirs of my brother who died in Texas, do you think it possible that I could have tried any land case involving the same principles as those involved in my own case without your knowing it?

Answer. I think if you had done so I should have known it. I

have been in the court, with but few exceptions, every term, and almost every day of the term. Another reason satisfies me, further, that Judge Watrous could not have done so. From the fact of so much clamor being made against him, I think I should have heard of it, if he had done so, through means of that clamor.

Question. Has there been any term of the court, over which I preside, when you were not there?

Answer. I think there were some short terms in the summer when I was away in the southern and western parts of Texas.

Question. Did you ever know me to try a case in which you thought there was anything in the case which rendered it improper for me to try it?

Answer. I never did.

Question. Was the power of attorney that was used in New Orleans the same as that you have referred to from Tomas de la Vega and others to Williams?

Answer. It was.

Question. Was that power of attorney used before that court by my procurement or consent, or with my knowledge?

Answer. Judge Watrous had nothing at all to do with it, in the preparation or in the management of the case, in any form or shape.

Question, (by Mr. Craige, of committee.) Were you counsel for the plaintiff, in the case of Lapsley vs. Spencer?

Answer. Yes; no one else had anything to do with it, except myself, as leading counsel, and League, the agent of Lapsley, under a letter of attorney and instructions from him.

Question, (by Judge Watrous.) Where was I at the time of the trial?

Answer. He was holding court at Brownsville, on the Rio Grande, in the western part of Texas?

Question. Was that power of attorney so proved before the court that it sent it to the jury as testimony in the case?

Answer. It was.

Question. Did anything appear on that trial going to show that this power of attorney had been forged?

Answer. Nothing that I recollect, except an *ex parte* affidavit, to a plea of Mr. Spencer.

Question. Has there been any testimony taken in the case as to the genuineness of that power of attorney since the trial?

Answer. There has been testimony both impeaching and sustaining its validity.

Question. Before what officer of the Mexican government does that power of attorney purport to have been made.

Answer. It purports to have been executed in conformity with the law of Coahuila and Texas, before Juan Gonzales, first regidor and second alcalde, in turn of the municipality of Leona Vicario, in what was then the State of Coahuila and Texas.

Question. Has that man been brought to New Orleans?

Answer. Yes; he has testified regarding the execution of the power of attorney.

Question. Did you ever ask me whether I would hold the January term of the court at Galveston in 1852?

Answer. I did ask you. It was at Austin, where Judge Watrous was then holding a term of the court required by law. I had cases in Galveston on the chancery docket, in which I wanted some orders made with a view to the preparation of them; and being in Judge Watrous' room with other persons, who apparently went there for the same purpose as I did, I made the inquiry of him, and he replied that he would hold the term; that he would not have a jury; but if there were any persons who wished to try cases by consent on the common law docket, he would have a jury summoned to try them; but he would try or hear no other cases, but would make such orders as were applied for with a view to the preparation of causes. I obtained orders in various cases, but I do not recollect in how many.

Question. Do you know how long that court was held?

Answer. I do not.

At this stage the examination of the witness was adjourned.

ROBERT HUGHES.

THURSDAY, FEBRUARY 25, 1858.

In the matter of the investigation of the charges against the official conduct of Hon. John C. Watrous, the examination of Robert Hughes, a witness before the committee, was resumed. Judge Watrous continued his examination of the witness, who testified as follows:

Question. What testimony was there impeaching the power of attorney from De la Vega and others to Williams?

Answer. There was the testimony of Tomas De la Vega, who purports to have given the power.

Question. Do you know whether Mr. Gonzales had or had not any interest in the event of that suit?

Answer. I know nothing on that subject, except what he stated on his examination.

Question. Is Mr. De la Vega, whose deposition was taken, the same party as mentioned in the original grant as grantee?

Answer. I have no doubt but that he is so. His deposition shows that, as I think, beyond all question.

Question. State whether there was a controversy in Texas in relation to the statute of limitations?

Answer. There was a controversy in Texas as to the true interpretation of the last clause of the 1st section of the statute of 1841 on the subject of barring causes of action on written contracts. Judge Watrous, in the case of the Union Bank *vs.* Stafford, determined that the statute commenced running only from the time the defendant first came within the jurisdiction of the court; and the supreme court of the State determined about the same time, or afterwards, that the statute commenced running at the time of the accrual of the cause of action, though the defendant, who was sued in Texas, was not, at the

time of the accrual of the cause of action, within the jurisdiction of the court. Judge Watrous' opinion was founded upon the interpretation that had been placed in other States upon that portion of the statute which relates to a return to the State, and the supreme court disregarded these opinions in the other States.

Question. Was not my opinion also founded upon the English decisions?

Answer. The opinions in the other States were founded upon the English decisions.

Question. Was or was not the controversy you refer to as to whether the statute commenced running from the maturity of the contract, or from the time the defendant first came within the jurisdiction of the court?

Answer. It was.

Question. State which way I decided?

Answer. Judge Watrous decided that the statute commenced running from the time the defendant first came within the jurisdiction of the court.

Question. Was this question one of great interest in the country, and did it involve the right to a great deal of property?

Answer. It was of great importance, and the rights of holders of a great deal of personal property, such as negroes, depended upon it.

Question. How was the public sentiment divided on that question?

Answer. All the debtor class, I believe, were on the side of the decision of the supreme court of Texas; and that class influenced the majority of the people, as I believe, and there was a great deal of feeling with regard to it.

Question. Did Judge Watrous' decision give rise to much excitement, and what was the character of that excitement?

Answer. It did give rise to a great deal of excitement. The excitement was with regard to what was supposed would be the conflict between Judge Watrous and the supreme court; and those persons interested adversely to the decision of Judge Watrous, not within my knowledge, but according to the history of the country, very largely participated in the excitement.

Question. State whether or not there has been a question in Texas with reference to what are called the border and coast leagues?

Answer. There has been what I consider a very important question. The border league question arises in regard to land located within the twenty leagues bordering on the United States line on the north, and the littoral league question as to the ten leagues on the coast of the Gulf of Mexico; in regard to both of which there was a prohibition in the general colonization law of 24 18 to colonization within that border or coast without the consent of the national executive. Numerous grants to Mexican purchasers had been made, both within the border and coast. The convention which formed the constitution of the republic inserted an article in the constitution declaring all eleven league grants located within the border leagues, in violation of the laws of Mexico, to be void; and the congress of the republic in 1841 passed a law, by virtue of which it was directed and

declared that all persons claiming lands within that border, located before the 1st of March, 1836, should bring suit against the State to try the validity of their title within one year, or they should be forever barred. The most of the large claims within the border were held by owners within the United States of the north. These persons—a great many of them, at least—insisted upon the validity of their claims; and the settlers claiming under titles from the republic of Texas, or settlement or colony grants from the States of Coahuila and Texas, of one league, resisted the claim; and, as the committee will see by an examination of the act of 1841, the whole power of the government was brought to bear against these large claims, which produced within the border, and within the coast leagues also, where the law of 1841 or the provision of the constitution on the subject did not apply, a great deal of excitement. Notwithstanding the excitement, some of the holders insisted on enforcing their large claims. Among others, I brought a suit for William Christie, of New Orleans, for land within the border leagues. On these cases, until Judge Watrous believed that the supreme court of the State had definitively settled the questions against my client, he held to his own opinion, and sustained the validity of the title; and this, I have no question, produced a great excitement against him. Judge Watrous retained his opinion on the subject until constrained, as he said, by a settled course of decisions on the part of the supreme court of Texas, to consider them as a settled rule of property, by which he was bound, and he then conformed to them. And the same thing may be said with regard to the coast leagues.

Question. State how the 4th article of the general colonization law of Mexico was involved in this matter, if at all?

Answer. I did not think, nor do I yet think, notwithstanding the opinions of the supreme court of Texas, that it had anything to do with the question, as by the express terms of that 4th article it was made to apply to colonization, and not to granting land to Mexicans in sale, under the 24th article of the law of 1825; and in that opinion I have been sustained by the decision of the Supreme Court of the United States, in the case of the United States *vs.* Arguello.

Question. State whether the question decided by the Supreme Court of the United States was the question presented to me, and whether the construction I placed on that article of the general colonization law was or was not the decision of the Supreme Court here?

Answer. It was the identical question, and Judge Watrous made the same decision as did the Supreme Court.

Question. State if you know any other causes of excitement against me but these decisions?

Answer. I do not know of any other but one, which I may mention; that was a quarrel which Mr. Alexander had with Judge Watrous in court in regard to the Stafford case.

Question. Was the jurisdiction of the federal court, when it was introduced into Texas, popular or unpopular, irrespective of the judge?

Answer. I can't say whether it was popular or unpopular at the

time of its first introduction, but I know that it was unpopular when I first came to Texas in 1848; and the opinion of the people on that subject was founded, as I believe, on the apprehension that debts following them from other States would be enforced by the federal court, and which would not be enforced, in their belief, before the State courts.

Question. When papers come into a cause without objection from either side, is it the practice to have them read at the time they are presented?

Answer. The universal practice, as far as my knowledge of the practice in the federal court of Texas goes, is for counsel to say that the papers may be considered as read, and used at any time during the progress of the trial when wanted.

Judge Watrous here concluded his examination of the witness.

Question, (by Mr. Craige, of committee.) Were there any alterations or erasures made in the power of attorney from Tomas de la Vega and others to Williams from the time you first saw it until it was offered in evidence in the suits of John W. Lapsley *vs.* B. R. Mitchell, Warren and others, tried in the federal court of the United States at New Orleans?

Answer. There were none that I know of. I do not believe there was any evidence of any alterations or erasures in any part of the instrument. It was the same paper as when I first saw it. I know this, because I had repeatedly read it and translated it.

Question, (by Mr. Chapman, of committee.) Had you heard the validity of the power of attorney in the case of Ufferd *vs.* Dykes disputed or questioned before you gave it to the opposite counsel?

Answer. I had not.

Question, (by Mr. Taylor, of committee.) Where is that power of attorney you withdrew from the land office, as you stated?

Answer. I can't say now exactly where it is, but I can account for it. I filed it as evidence in the case of Lapsley *vs.* Spencer, in New Orleans. After the decision of the case there, and when I was about returning home, I withdrew it by the leave of the court from that suit to be used in other suits then and still pending in Texas. I retained it in my possession until I went to Waco, in the summer of last year, when I left it with Mr. Richard Coke, a lawyer at Waco, who was employed by Mr. Lapsley to assist in the prosecution of cases pending there, and it was left with him for the purpose of being used on the trial, which was expected to be had in the district court at Waco a short time after; and I requested him to return it to me at Galveston as soon as he had got through with the trial of those cases. When I left home it had not been returned, but the cases had not been tried, as I learned; and I suppose that now it has been returned to Galveston to Mr. League. I may add, that if the document be lost, there is a record of it in the county court of McClelland county, at Waco.

Question, (by Mr. Taylor.) What time was it when you withdrew that power of attorney from the land office?

Answer. I think it was in the summer or fall of 1853.

Question, (by Mr. Taylor.) What officer was in charge of the land office at that time, and from whom did you receive it?

Answer. I think General Smyth was commissioner of the land office at that time. I withdrew it on application to the principal clerk, who was acting commissioner in the absence of the commissioner. His name is Stephen Crosby.

Question, (by Mr. Taylor.) Was there any endorsement on that power of attorney showing when it was deposited or by whom deposited?

Answer. I do not believe that there was any mark on it showing when or by whom it was filed. It was bound up in a book with the title of possession, and, upon my application for it, it was cut out of the book.

Question, (by Mr. Taylor.) What was the name of the Spanish clerk, in the land office, who certified to the copy of the power of attorney?

Answer. His name was E. Sterling C. Robinson.

Question, (by Mr. Taylor.) Do you remember the date of that copy?

Answer. I do not.

Question, (by Mr. Taylor.) Where is that copy now?

Answer. Mr. Hale has never returned it to me, I think; I suppose it is on file, in the case of *Ufferd vs. Dykes*; I recollect applying for it, but I do not remember whether I got it, because I had got the original before, and had no need of the copy.

Question, (by Mr. Taylor.) Did you institute any of these suits in the State courts on this title, in behalf of Lapsley, before they were instituted in the United States courts?

Answer. I did not.

Question, (by Mr. Taylor.) Was the agreement of counsel, to transfer the cases from Galveston to Austin, made in writing?

Answer. It was not made in writing, except by entering on the record, if entered at all; and I believe it was.

Question, (by Mr. Houston, of the committee.) Was the agreement signed by the counsel who made it, or was it a mere entry on the records of the court?

Answer. It was not signed by any counsel at all, as I recollect.

Question, (by Mr. Taylor.) Was the agreement to substitute an arbitrator in the place of Judge Watrous, in the cases in which it was stated he was interested, made in writing and signed by counsel?

Answer. I think not.

Here the examination of the witness was adjourned.

ROBERT HUGHES.

FRIDAY, FEBRUARY, 26, 1858.

The examination of Robert Hughes, a witness before the committee in the matter of the investigation of the charges against the official conduct of Hon. J. C. Watrous, was resumed.

Question, (by Mr. Taylor, of committee.) Did Judge Watrous re-

quest you, before the institution of any of these suits in the federal court, to bring them in the State courts?

Answer. He did not, according to my recollection, for the reason already given, that he had nothing to do with them.

Question, (by Mr. Taylor.) State who were present at the time Judge Watrous first declared, from the bench, his interest in these suits.

Answer. I recollect distinctly that Mr. John Taylor, who purported to be counsel for all the defendants at that time, except Spencer, was present. I know that the record shows that Swett and Howard were the counsel for Spencer. I believe that Swett and Howard were in the court at the time, and Mr. Merriman also, because I had seen them there frequently in those cases.

Question, (by Mr. Taylor.) Do you remember any other persons who were present?

Answer. No; I do not recollect any one else so distinctly as to state who. But I recollect that the court was full, as is usual at the commencement of a term; I recollect that there were a good many persons present. I distinctly recollect the application as it was made by Mr. Taylor in court, because his manner is remarkable, and because a great deal had been said about his appearing in the case; and when he made the motion, he did it in a manner that impressed my mind.

Question, (by Mr. Taylor.) Could a paper brought in to complete a chain of title be passed upon, in a case tried by a jury, without being read, or its nature stated to the jury in the presence of the court?

Answer. Ordinarily it would be so; but there might be cases where it would not be the practice, as where parties might direct their argument before the jury to some other link in the chain of title, and consider the other part as perfect, without calling any particular attention to it.

Question, (by Mr. Billinghamurst, of committee.) Did Mr. Hale make an application in open court for the continuance of the case of *Ufferd vs. Dykes*?

Answer. He either made the application in open court, or was about to make it, according to my recollection, when the necessity for it was dispensed with by what I have already stated.

Question, (by Mr. Billinghamurst.) Can you give no other answer to this question?

Answer. I do not know how to make a more categorical answer than I have made.

Question, (by Mr. Billinghamurst.) When were you first brought into the case of *Ufferd vs. Dykes*?

Answer. I think I was brought in at the term the case was tried.

Question, (by Mr. Billinghamurst.) With whom did you make an agreement for the continuance of the *Lapsley* cases at the November term, 1853, of the court at Austin?

Answer. Some of the cases were called, and I had them called for the purpose of trying or otherwise disposing of the whole of them; and Mr. Taylor, who I knew to be counsel for at least part of them, proposed to me to continue them until the next term, and they should

be tried then under the agreement previously made. I made no agreement with any other counsel than Mr. Taylor. My recollection is, that there was no counsel there for Spencer. That case, together with the others, was passed over with the understanding that it should stand in the same position, without any agreement about it.

Question, (by Mr. Billinghamhurst.) Was Spencer there himself?

Answer. I cannot say. It appears to me that I saw him there at some time, but I cannot say anything definite on that subject.

Question, (by Mr. Billinghamhurst.) Do you know who took the papers in the Lapsley cases to Austin from Galveston?

Answer. I think a difficulty occurred with the clerk about taking the papers there. My recollection is, that they were delivered by the clerk, at my request, to Mr. Ballanger in a packet, as he (Ballanger) stated, and that Mr. Ballanger delivered them to the clerk at Austin. But of this I am by no means certain. I am certain that I did not take them there.

Question, (by Mr. Billinghamhurst.) When were they delivered to Ballanger?

Answer. They were delivered to Mr. Ballanger just before the term at which they were filed at Austin. I state this because I have a recollection that, some time before the term, I was about starting to go down to the western part of Texas, whence I expected to go to Austin; and understanding that Mr. Ballanger would go to Austin, I requested the clerk to deliver the papers to him.

Question, (by Mr. Billinghamhurst.) In what manner were the papers in this case transmitted from Austin to New Orleans?

Answer. I applied to the clerk at Austin, who made the certificate required by the act of Congress, and sent them by mail to me at Galveston; and I took the packet and delivered it to Mr. Gurley, the clerk at New Orleans, at the time the record shows they were filed at New Orleans.

Question, (by Mr. Billinghamhurst.) When did you receive the papers at Galveston?

Answer. It was a short time before I went to attend court in New Orleans. That is my recollection.

Question, (by Mr. Billinghamhurst.) How much time was consumed in the trial of the Ufford and Dykes case?

Answer. I can't say precisely; but from the importance of the questions made in the case, and the feeling had by counsel on both sides, I must say that I believe it was extended to a considerable length. It could not have been less than ten days.

Question, (by Mr. Chapman, of committee.) What was the ground upon which the opposite counsel made, or was about to make, an application for the continuance of the case of Ufford *vs.* Dykes?

Answer. I think it was because he did not have a copy, or a properly authenticated copy, of the power of attorney I have referred to.

Question, (by Mr. Chapman.) Was that the only ground?

Answer. I do not recollect any other ground.

Question, (by Mr. Chapman.) Had Mr. Hale seen the copy of this power of attorney in your possession before you delivered it to him?

Answer. I think I told him I had a copy, and showed it to him, and delivered it to him to be used on the trial.

Question, (by Mr. Chapman.) Was that before he proposed to make an application to continue the case?

Answer. I would suppose it was after that; I cannot state more definitely.

Question, (by Mr. Chapman.) Did he read the power of attorney for his own satisfaction before submitting it to the jury?

Answer. I do not know.

Question, (by Mr. Billingham, of committee.) Were the defendants to that suit in possession of the land in controversy at that time?

Answer. I think it was either proven or admitted on the trial that they were in possession.

Question, (by Mr. Houston, of committee.) How many suits were instituted by Lapsley against persons settled on or claiming to own portions of the La Vega eleven-league grant in the district court of the United States for the district of Texas; against whom, and when were they instituted?

Answer. There were eleven suits commenced in the district court of the United States, at Galveston. There were one or more suits against some of the defendants in the first suit, and other defendants not sued in the first suit, commenced in the court at Austin. In regard to the cases commenced at Galveston, all of these suits were transferred to New Orleans, and all of them have been disposed of by judgment in favor of the plaintiff but one, and that is the suit of Lapsley against Mitchell and Warren. There is a correct list of these suits at page 380 of House Document, Report No. 175, 3d session, 34th Congress. Those suits I have mentioned as commenced afterwards in the court at Austin I cannot give the names of, except in part. I have to do it from recollection. There were Eliphas Spencer and the heirs of William Delk; these are all the names I can recollect of those sued before. I recollect there was a man of the name of Arnold, perhaps two persons of that name, who were also sued, and Burwell Thompson, and another man, living below Mr. Thompson, on the river, but I cannot recollect his name. All of these suits, I believe, were on the docket at Austin when I was last there. They were instituted in 1852 or 1853—I cannot come nearer to it. The suits at Galveston were all commenced at the same term, in January, 1851.

Question, (by Mr. Houston.) Can you state more nearly the dates of the institution of the suits at Austin than specified in your answer?

Answer. Upon reflection, I can state that I was here in 1852, and not in the western part of Texas; and from the fact that I ordinarily commenced no suits there unless going to that part of the State, I think it must have been in 1853, and in the summer, if in that year.

Question, (by Mr. Houston.) How many of such suits have been instituted in the State courts; against whom, where, and at what precise date?

Answer. I commenced one suit in the name of John W. Lapsley

against most of the defendants, I think, in the other eleven suits, but I cannot say which were not included ; some were left out, I know ; I recollect one, Heffington and Long ; they were not sued, I think, because Burwell Thompson was in possession of the land they had formerly occupied, and I sued him ; and I also sued in that same suit one or two of the Arnolds, and some other persons whom I cannot now recollect. I believe the suits were commenced in the fall or winter of 1852, after my return from this city home. The suit I mentioned is yet pending, and is the same which I referred to before as the suit in which I expected to have a trial last fall, at Waco.

Question, (by Mr. Houston.) Was Mr. Spencer one of the persons sued in the State court, at Waco, referred to in your last answer?

Answer. I think he was.

Question, (by Mr. Houston.) Were these suits against Spencer for the same cause of action?

Answer. Yes.

Question, (by Mr. Houston.) Have any of said suits been compromised or settled ; and if so, which, when, upon what terms, and by whom?

Answer. As to some land on the upper part of the tract, a compromise has been made. I was so informed, by letter, by Mr. Lapsley ; I believe the names of the parties with whom the compromise was effected were Kellum ; I think these persons were also sued. The compromise was made early last year, I think ; the parties with whom the compromise was made agreeing to pay, I think, about five dollars per acre for about two thousand acres of land. It was made by Mr. League, as the agent, and by the directions of Mr. Lapsley, as he (League) informed me. I have not been able to state these things more definitely, because I had nothing to do with them, being counsel only in the case.

Further examination of the witness was adjourned.

ROBERT HUGHES.

SATURDAY, MARCH 6, 1858.

Continuation of the examination of Robert Hughes.

Question, (by the chairman.) Were suits instituted against all of the settlers upon, or persons claiming to be part owners of the La Vega eleven-league grant?

Answer. I cannot answer that, because I had to act through an agent. I intended to bring suits against all. I believe that either at one time or other I did commence suits against all ; but I cannot say so with certainty.

Question. State who that agent was?

Answer. I sent my son up there to get the information.

Question. What is your son's name?

Answer. Archibald M. Hughes.

Question. Were compromises made with any of said settlers or part

owners without suit ; and if so, what, when, by whom, and on what terms ?

Answer. I do not recollect any compromises being made except those which I referred to, and I think that the Kellums were sued in that suit, which was commenced at Austin, and perhaps in the suit at Waco. But I presume that this inquiry is directed towards another person, who is in possession, and claiming 640 acres, with whom there was no compromise, but who claimed by virtue of a purchase made before the land was conveyed to Mr. League, and by him to Mr. Lapsley. That person was Mr. Arnold, who claims under Mr. Sutton, who made the purchase from the agent and attorney of Mrs. St. John, when the land was held in trust for her by Williams and Maynard. An arrangement was made with him, as I have understood.

I have said before, Mr. Chairman, and I add it here, in reply to this question, that it was by mere casualty I knew anything about the compromise, because I had nothing to do with that. I was not the agent of the parties in any form or shape. I was merely the attorney.

Question. You say there was no compromise that you know of. Did any of these settlers purchase the lands on which they live? If so, state for what price, and when, and of whom?

Answer. I have already stated, in my former examination, that there was a compromise, but it was by way of purchase by the Kellums.

Question. You know of no other?

Answer. I do not recollect having heard of any other. I do not know that even, of my own knowledge, but from having heard it from Mr. League and Mr. Lapsley.

Mr. BILLINGHURST. That amounts to knowledge.

WITNESS. It amounts to knowledge, so far as League is concerned ; and as to Mr. Lapsley, I got it, as I said before, by letter.

Question. How many acres of land are there in the La Vega eleven-league grant?

Answer. I can make an approximate estimate by referring to the boundary. In an eleven-league grant there would be, if no more than the quantity called for, eleven times 4,428 acres—between 48,000 and 49,000 acres. But as I have calculated the area from the boundaries as given in this grant, I have found it to include about 20,000 acres more than what is called for.

Question. What was the price paid, or agreed to be paid, by Thomas M. League for this eleven-league grant?

Answer. I cannot say, further than it is found in the deed of conveyance. I do not know.

Question. What was the price paid, or agreed to be paid, by John W. Lapsley for said grant?

Answer. I can say what I understood from them in regard to it. It was the amount which it had cost Mr. League, whatever that was.

Question, (by Mr. Taylor.) The same price?

Answer. Yes, sir ; that I understood from the parties.

Question, (by the chairman.) What interest does Judge Watrous own in that grant?

Answer. I have already stated that he and Mr. League, as I understood from the parties, were to have one quarter each on their paying the proper proportion of the purchase money—the two together owning one-half, each a quarter.

Question. Has Judge Watrous paid any portion of the money which you say he was to give for his interest in said land? If so, how much, to whom, and when?

Answer. I do not know anything on the subject. I never heard him say anything on the subject. I never heard any of the parties say anything on the subject.

Question. Give the precise date, if you can, when you withdrew the power of attorney from the land office at Austin?

Answer. I have stated all that I can state on that subject in my previous testimony.

Question. You can repeat. What is the date of that withdrawal, according to your recollection?

Answer. I stated that I thought it was in 1853, in the summer or fall.

Question, (by Mr. Billingham.) Why did you ask Judge Watrous, at Austin, if he would hold a term of the court at Galveston, in January, 1852?

Answer. I have stated because I wished to apply for some orders in chancery suits, and I wished to know because I had understood that he would not do any business at that term, except to make orders, unless the parties agreed to try a cause; understanding that, I went to him to know how the fact was, and he answered as I have already stated.

Question. Had you understood at Austin that there would be no term of the court held at Galveston?

Answer. No, sir; I have stated that I understood he had said he would hold the court, but would not try any causes unless the parties had them tried by consent, but that he would make orders in chancery suits necessary to prepare cases. That is what I understood, and I went to court to learn the truth of it.

Question. When did you first know of any negotiation by League or Lapsley for the purchase of the La Vega tract?

Answer. According to my recollection, it was when these gentlemen came from Alabama; one of whom, I said, brought his little daughter to my house.

Question. Had you never examined the title before that?

Answer. I think not. I think I never saw it before that time.

Question. Do you know Dr. James Hewitson, of Saltillo?

Answer. Yes, sir; I have done business for him as a lawyer in Texas.

Question. Has he been employed by you, or by any parties litigant in Texas, to obtain authentic copies of documents in the archives at Saltillo?

Answer. I have not employed him, and I do not know of any one who has employed him to do so?

Question. Has he been employed by you or any of your clients to examine the archives at Saltillo?

Answer. He has not been by me, and I do not know whether he has been employed by my clients or not. They never informed me if he was.

Question. Where has your son, Archibald M. Hughes, resided for the last four years?

Answer. He has resided, ever since he has lived in Texas, in Galveston, and is residing there now.

Question. What offices, if any, has he held in that time?

Answer. He was appointed clerk of the district court when there was a vacancy in the office by the death of Mr. Thomas Bates. He was appointed temporary clerk till Judge Watrous could make another appointment.

Question. Name the time.

Answer. It was the time of the death of Mr. Bates—in 1849, I think. He continued in office till Judge Watrous, a short time afterwards, made a permanent appointment by appointing Judge Love; and he has been a commissioner of affidavits and bail, appointed by the district court there to take depositions, &c., under the 30th section of the judiciary act of 1789. I do not know of any other office he has held there.

Question. Has he been deputy marshal?

Answer. Yes; I had forgotten that; he has acted as deputy marshal.

Question. For how long a time?

Answer. I believe he acted as deputy marshal a year or more—I cannot exactly say how long—under Mr. Bates when he was marshal. I do not know whether he acted at all under the former marshal, Mr. Cocke, and I think that last fall he took charge of the office of marshal during Mr. Cleveland's absence at Brownsville, attending court. Mr. Cleveland told me he had got Archy to go into the office and take charge of it in his absence. I do not know whether he was acting as deputy or not at any other time.

Question. Is he now a commissioner in Judge Watrous' court?

Answer. Yes, sir, I believe so; he was a commissioner, and resigned, and was reappointed afterwards.

Question. What parties did you allude to as parties in interest when you testified to withdrawing the power of attorney from the general land office?

Answer. I meant the persons who were concerned in that land.

Question. What parties?

Answer. I meant Mr. Lapsley, the person who had the legal estate, and for whom I was attorney, and I meant those persons who were connected with him.

Question. And only those persons?

Answer. That is all I know.

Question. What are Mr. League's pecuniary circumstances?

Answer. Before the reverses of the last few months, I thought he was worth in property from \$50,000 to \$75,000, perhaps more. What his property is worth now I cannot tell.

Question. What were his circumstances in 1850?

Answer. He was very well off, but he had not as much property as he has now.

Question. Did he have a cash income at that time?

Answer. Yes; he had the income from his property; he was always hard run for money.

Question. Do you know what his income amounted to in 1850?

Answer. Well, I think that about that time Mr. League told me that his income was less than it had been, because the value of property which he formerly owned in Houston had gone down.

Question. I ask you if you know what his income was in 1850?

Answer. I do not know anything, except what he told me, and I am stating that for the purpose of showing my knowledge on the subject.

Question, (by Mr. Taylor.) You did not mention any amount.

Answer. I cannot say, certainly, what his income was, but about that time, I think, from a conversation with him at the time, his income was not more than from \$2,500 to \$3,000 a year from his rents.

Question. What were Judge Watrous' pecuniary circumstances in 1850?

Answer. I think he was very much embarrassed; he had a good deal of landed property.

Question. At what date, in the summer of 1857, did you leave the power of attorney with Mr. Coke, at Waco, to be recorded?

Answer. I did not leave it there at that time to be recorded; I left it there to be used in a trial that, it was anticipated, would be had at the term which was to be held a short time afterwards.

Question. Were you there yourself?

Answer. Yes; and handed it to him with my own hands.

Question. How long did you remain at that time?

Answer. I remained about a week.

Question. What trial was to come off there?

Answer. I have already stated that it was the suit which I commenced in the court at Waco, against Mr. Spencer and the others.

Question. Did you ever apply personally to have that power of attorney recorded in McLellan county?

Answer. I think not; Mr. League sent it once there to be recorded, and I sent it myself, by mail, from Austin, to be re-recorded, I think.

Question. Was it recorded when Mr. League sent it?

Answer. It has been twice recorded; I think it was recorded when Mr. League sent it, and recorded when I sent it, on some further proof; that is my recollection, I cannot say distinctly.

Question. Did you give directions to Mr. Coke to have it recorded?

Answer. No, sir; it was recorded then; it never was recorded afterwards.

Question. Do you know whether the recording officer of McLellan county has ever refused to record that instrument?

Answer. I do not know anything about it.

Question. Was that instrument attended with all the necessary formalities to entitle it to be recorded, so that the record proof would be legal notice or evidence under the laws of Texas, when presented by League?

Answer. I do not know. It was not presented by Mr. League; it was sent there by mail.

Question. I mean that time.

Answer. I thought it was sufficiently proven to be notice when recorded. I did not doubt much on the subject, but afterwards, for fear of difficulty, I had it proved by another witness, and then had it recorded when it was in conformity with law.

Question, (by Mr. Billinghamst.) Judge Hughes, what was the leading suit in the supreme court of Texas which Judge Watrous in his answer alludes to as likely to decide the law in the Lapsley cases?

Answer. The case of Hancock *vs.* McKinney, (7 Texas Reports.)

Question. Were you counsel in that case?

Answer. I was not counsel in it until the term at which it was decided. I then argued it at the request of Judge Watrous or some of his friends, he or they being interested in it. I argued it, as one of the counsel, in the supreme court. My brief will be found in the case as reported.

Question. In the supreme court?

Answer. Yes, sir.

Question. On which side—for plaintiff or defendant?

Answer. I was for the defendant in error—the plaintiff in the court below.

Question. For the plaintiff?

Answer. Yes, sir; for the plaintiff in the court below, and for the defendant in error in the court above—the appellee.

Question. Was Judge Watrous' brother interested in that suit with McKinney?

Answer. Yes, sir. I have always understood so. He has held possession of a portion of the land since. His farm is on it.

Question, (by the chairman.) Had the Judge any interest, aside from the interest of his brother?

Answer. I think he, together with his sisters, claimed possession of the land which belonged to his brother in his lifetime, as his heirs.

Question. Was his brother dead at the time you argued that case in the supreme court?

Answer. Yes, sir. Daniel Watrous was living, but the person under whom they claimed was Nicholas, who died before I went to Texas. I do not know how long before. I think it was in 1841 or 1842.

Question, (by Mr. Craige.) It was an interest, then, that they did not purchase, but which devolved upon them by law?

Answer. Yes, sir; at least I so understood from them. I do not know anything else.

Question, (by the chairman.) In your examination by Judge Wat-

rous, you stated that you delayed making the motion for a transfer of the Lapsley cases to Louisiana, for the purpose, in part, of awaiting the settlement of questions of this kind in the courts of Texas and of the United States. Is that substantially correct?

Answer. I believe that is what I stated.

Question. Will you now specify those cases, and where they were pending?

Answer. Well, there were cases pending—some in the supreme court at Austin, and some at Galveston.

Question. Specify the cases. Name some of them.

Answer. Well, I cannot now give the names of the cases. Perhaps I can state some of them. There was the case of *Edwards vs. James*, I believe, and the case of *Swift vs. Herrera*; and there were questions arising upon titles of the same description throughout the State, about which suits may have been brought. It was in regard to these things that I spoke, when I spoke of waiting for a settlement of questions in the courts of the State. The general principle upon which all these titles depended was what I alluded to. And I spoke of the courts of the United States, because I supposed that there would be some cases in regard to the land laws which would be decided in the court at Galveston, and which would perhaps be taken up to the Supreme Court of the United States, and which would settle the general principle in regard to the titles, not in view of any particular question, but as to the general validity of this kind of title derived from Coahuila and Texas.

Question. Have those cases been determined; and if so, when?

Answer. Well, the particular cases that I have mentioned—the cases of *Edwards vs. James*, and *Swift vs. Herrera*—were determined, and, I think, are reported in the 9th volume of Texas Reports. A good many other cases have been decided, which you will see in subsequent reports, from time to time, from the 7th volume down.

Question. You cannot state the date of the other decisions?

Answer. No, sir. I can mention other cases which were decided. The case of *Hatch vs. Dunn* is reported, I think, in the 12th volume of Texas Reports. The case of *White vs. De Leon* and the case of *White vs. Holliday* were, perhaps, decided since the cases were transferred. The case of *Jenkins vs. Chambers* is another case that is reported in the 9th volume.

Question. Have those cases all been decided by the supreme court of Texas?

Answer. Yes, and several others, the names of which I do not now recollect. A good many cases under the general land law were decided under the laws of Coahuila and Texas, in which, as a general principle, those titles that were not fraudulent were maintained. Some were destroyed because of fraud—one that I mentioned just now, the case of *White vs. De Leon*. That is what I meant when I stated that I was waiting to see the course of the decisions that would finally be taken in Texas, and then I intended to try the cases.

Question, (by Mr. Tappan.) What was the case of *McKinney vs. Hancock*.

Answer. It is reported in the 7th volume of Texas Reports. The land is now owned and claimed and held by persons who purchased it from the original grantees and those claiming under them. Daniel Watrous has a farm on part of it.

Question. The case was decided for the plaintiff?

Answer. I appeared for the plaintiff, McKinney. McKinney claimed under a grant for ten leagues to Santiago del Valle, and Hancock claimed under a location under the republic.

Question, (by Mr. Billingham.) Was the plaintiff in the suit of McKinney *vs.* Hancock related to or connected with Samuel M. Williams?

Answer. Yes, sir, I think he was his former partner.

Question. What was Mr. Howard's name, of the firm of Swett & Howard?

Answer. Robert H.

Question. When did Mr. Swett die?

Answer. Well, he went to California six or seven years ago, and I think he died just after he got there. I cannot give the precise time.

Question. Where does Mr. Howard live?

Answer. He lives in Galveston.

Question. Has he continued to live there since Swett went to California?

Answer. All the time.

Question, (by the chairman.) Can you state the year when Mr. Swett went to California?

Answer. No, sir; I cannot.

Question, (by Mr. Ready.) Why were suits brought in the State court at Waco, and in the district court of the United States at Austin, when suits were pending in the district court at Galveston against the same parties for the same lands?

Answer. There were some reasons that operated upon me in commencing those suits. It is true, I did not have any difficulty upon the subject, but there was doubt expressed upon the subject, and, therefore, I commenced the suits. It was doubted whether, if after I had commenced the first suits, other persons had settled upon the lands, and I got judgment in the first suits, I could turn out those who in the meantime had obtained possession by virtue of the process which was issued upon the judgment in the first suits. As I said before, I did not doubt upon the subject myself, but a serious doubt was suggested to me; and, indeed, I had a long discussion with one of the lawyers in Texas, Mr. Prior Lea, in which he insisted upon it that I was mistaken about the rule. For safety, afterwards, I commenced the suits, because if I could not have turned them out by virtue of the process in the suits commenced, when there was nobody else in possession, why the statute of limitation would have operated against me; and, in the next place, I did not know what might happen in those suits. Something might render it necessary for me to take a non-suit, and then there would have been difficulty as to the effect of the statute of limitation, some persons supposing that as to the

construction of our act of limitation the particular clause as to the stopping the running of the statute by the commencement of suits was such that we would be governed by the civil law rule, and some supposed that we would be governed by the common law rule; and it was contended that a voluntary abandonment would render the suits which had been commenced, and in which there was a non-suit, ineffectual to prevent the operation of the statute. For those two reasons I commenced the suits.

Question, (by the chairman.) The reasons you have given apply to the commencement of the suits in the State court at Waco, as well as to those in the district court at Austin?

Answer. No, sir; that was a different thing entirely. I understood the question to apply to the suits commenced at Austin.

The CHAIRMAN. At Austin and Waco both?

Answer. As to that suit at Waco, it is a different thing entirely. I have already stated that I commenced that suit at the request of Judge Watrous, who gave me \$200 to pay for the expenses of the commencement of it, because he said he wanted the question decided. He wished the suit brought in order that the question might be determined in the State courts, so that he might not be subject to imputation. I did it at his request only, without any directions from Mr. Lapsley, and afterwards they insisted on trying their cases in the United States courts.

ROBERT HUGHES.

TUESDAY, MARCH 9, 1858.

Continuation of the examination of Robert Hughes.

Question, (by Judge Watrous.) What was about the time of your bringing that suit at my request; was it in 1852 or 1853?

Answer. I stated in my former testimony that it was after my return from Washington city in 1852?

Question. Do you think it was 1852 or 1853?

Answer. It was, as I believe, in 1852, after my return from this city. My recollection is, I have stated so before. If it is not so stated, it ought to be. It was after my return from Washington in 1852.

Question. What is the office of commissioner worth a year to Archy Hughes?

Answer. I think he will do well if he makes \$50 a year at any one time. I do not think he has ever made that.

Question. You have been examined about a clerkship he got from me; what do you suppose both offices have netted him in the last ten years?

Answer. I cannot say anything about the office of clerk. He was a short time in the office, about a month. I have no means of forming an estimate as to what it is worth. I should not suppose, from the ordinary business going on during a court, that it was worth anything of importance.

Question. Was he not in the office only while I could decide amongst the different applicants?

Answer. That is the truth.

Question. Will you be so good as to explain the decision I made on the statute of limitation after the supreme court of the State had interpreted it?

Answer. In regard to that, you conformed to the interpretation of the supreme court of the State because you thought you were bound to do so under the decisions of the Supreme Court of the United States.

Question. You spoke of a quarrel with Mr. Alexander; will you be good enough to explain the cause, circumstances, and termination of that quarrel?

Answer. I can only state it from having heard it spoken of by other parties.

Question. There is a power of attorney spoken of in *Ufford vs. Dykes*; will you be so good as to state, to the best of your recollection, whether that power of attorney was read to me or not?

Answer. I will state what I believe I have stated before. I do not believe that it was read to you, and because of the practice which we had on that subject of not reading those documents, but considering them when offered in evidence as read, to be used whenever it was necessary. From the questions which were made in the case, as exhibited by the record, and from my own personal recollection, there was no necessity to read it. No question, according to my recollection, was made on it, and there being no necessity for it, I don't suppose it was ever read.

Question. Will you be so good as to state to the committee whether or not, in trying these land cases, there is a very large mass of documents going to make up the record?

Answer. In all I have ever been counsel in, there has been a large mass of documents.

Question. What is my habit in deciding such cases? Do I decide by the briefs and upon the points presented to me, or do I examine the whole record?

Answer. The practice of Judge Watrous in these cases has been to rely upon the statements of counsel in briefs and arguments, unless there is some conflict between them, and then he has been in the habit of examining the record for himself.

Question. On what ground was the claim of *Ufford vs. Dykes* resisted? On what ground did the defence rest?

Answer. According to my recollection—I think I am accurate, the subject having a good deal of interest about it—it was upon the question as to whether the title for the land which was claimed on Williamson's creek was or was not void, there having been a previous title to possession issued.

Question. Was there any defence relied upon but that?

Answer. I do not recollect any; I cannot say that there was no other.

Question. Was there any question raised about the power of attorney in presenting it to me for decision?

Answer. I do not recollect any.

Question. What suits were tried in New Orleans?

Answer. There was the case of *Lapsley vs. Spencer*. There were two trials or attempts at trials; a hung jury in the first place, and a retrial with verdict for the plaintiff. Then there was a trial in the case of *Lapsley vs. Mitchell and Warren*, in which there was also a hung jury. Those are all the cases which were tried. There were judgments rendered as if, upon a trial in the other cases, to wait the determination of the case which was brought here of *Lapsley vs. Spencer*, and to be controlled by that judgment, provided it was decided upon the merits.

Question. Why were no other cases tried but those mentioned?

Answer. As to those in which judgments were rendered, to wait the determination of the case in the Supreme Court here, it was the agreement by virtue of which this was done which prevented the trial in these cases. And another trial was not had in the case of *Lapsley vs. Mitchell and Warren*, because Judge Campbell said that he thought he had given us enough of that term, and that he would not hear us again during that term. We had taken up a good deal of the term, and he was tired of it. He wanted to proceed to other business.

Question. Did the trial in the *Spencer* case settle all the cases but the one which is remaining there now?

Answer. It is so by agreement, because it was decided upon its merits.

Question. What is the character of the suits pending at Austin?

Answer. Actions of trespass to try titles.

Question. Are they against the old defendants, or those who came upon the land after them?

Answer. I have already stated that they are against those who came on since, and against some of the old defendants, but I don't know who.

Question. Are there any suits pending at Galveston; were not all sent to Austin?

Answer. Yes, sir; they were all sent there.

Question. Do the suits at Austin and the suits you brought at my procurement at Waco comprehend all suits?

Answer. They comprehend all I commenced.

Question. Has anybody else been employed?

Answer. Not that I know of. Mr. Hale has been employed as assistant counsel.

Question. What had I to do with the transfer of cases from Galveston to Austin, and from Austin to New Orleans?

Answer. What I have already stated.

Question. Had I, or not, anything to do with the transfer of cases to Austin?

Answer. Nothing, except that it was done in your presence in court by consent.

Question. What had I to do with the removal of cases from Austin to New Orleans?

Answer. That which the law required you to do ; that is, upon my motion you entered upon the record, where the committee will see when they examine it, what interest you had in it, and made an order for the certifying of the transcript, as required by the act of Congress.

Question. Did Mr. Spencer at any time, in your hearing or to your knowledge, ask me for a trial of his case ?

Answer. Not that I know of. I am satisfied he never did in my presence.

Question. What course did you take in reference to the power of attorney in New Orleans, about concealing it or permitting it to be seen ?

Answer. When applied to, and upon the very first application, for inspection of all my title papers, I handed the bundle containing them all to Mr. Wolfe for examination, and they remained with him until I came to Washington, attended to my business here, staying a week or ten days, or perhaps two weeks, and returned. I expected to get a trial of the case then, but Mr. Wolfe, having been sick, had gone off and had not returned, and his partner, Mr. Singleton, would not agree to a trial, as he said he did not know anything about the case. And finding I could not get a trial, I asked for the papers, and they were delivered to me.

Question. How long did you permit the power of attorney to remain in the possession of Mr. Spencer's lawyers, subject to their absolute and entire control ?

Answer. My recollection is, that it was about or a little more than a month. It was so far under their control that, from the time I left to come to Washington, I could not control it. If I had been there, I would not have considered it under their entire control.

Question. Explain why you obtained the testimony of James Hewitson in a deposition and affidavit annexed to the power of attorney ?

Answer. It was indispensably necessary to obtain the deposition, the paper being then an unrecorded paper, because, although according to the laws of Coahuila and Texas, if there had been no separation by revolution, the paper would have been evidence of itself, having been executed in such manner as to make it a public instrument without further proof ; yet, as I said in the course of my previous examination in regard to this kind of instruments, the supreme court, in the case of *Pascal vs. Perez*, or in some other case, decided that they would require proof of the execution of those instruments to provide against the possibility of the perpetration of fraud. Therefore, before I read that instrument in evidence, it was necessary that it should be proved, and I accordingly took the deposition of James Hewitson ; and I took his affidavit, which is annexed to the power of attorney, as to its execution, that the instrument might be recorded upon that. And these are the only reasons.

ROBERT HUGHES.

THURSDAY, MARCH 11, 1858.

Robert Hughes recalled, and examined by Judge Watrous.

Question. State whatever you know in regard to the ability of Juan Gonzales to read?

Answer. The committee will see, from the examination of the deposition of Mr. Gonzales, that the question was made, in the course of the examination, as to his power to read a paper which was then presented. After the close of the deposition, Mr. Gonzales and Mr. Kainer inquired of me where it was that I had procured a new glass put into my spectacles. Mr. Gonzales said he wanted to go there and see if he could not get a pair of spectacles by which he could see. Accordingly I went with them. I left them negotiating as to spectacles. I went off, and they met me afterwards at the tavern, and said they were to have the glasses fixed by a particular time. I do not recollect when. After dinner, I think it was, I started to go to the clerk's office in the court room of the federal court, and they started to go to the place where they were to get those spectacles. I had been in the court room some time talking to the clerk, to Mr. Lee, and to somebody else—perhaps Mr. Clack—when the two gentlemen came in, Mr. Gonzales having a new pair of spectacles on. I had some conversation with them. I asked him if he could see, and for the purpose of showing whether he could or not, I took a paper which was in the Spanish language, presented it to him, and asked him to read it if he could with the spectacles on. I put my finger below each line, and followed each word as he read it from beginning to end. He read it with as much facility as I or anybody else could have done.

Question. What paper was that?

Answer. It was the power of attorney that has been frequently spoken of—of La Vega and others to Samuel M. Williams.

Question. State why, on the trial of Ufferd *vs.* Dykes, you used a copy of the power of attorney and not the original?

Answer. I do not know. I do not know whether I had the original in my possession at the time or not. I am inclined, however, to believe that I did not have it in my possession at that time, although it was within reach. It was sent to be recorded, or in the possession of Mr. League—I do not know which—if I did not have it.

Question. Was there any reason why you were unwilling to show the original?

Answer. In reply to that, I say that, if there was, I do not know of any now. I never did refuse to show it to anybody who applied to me for the purpose of seeing it. I never knew of any suspicions in regard to its validity until they were started at that trial in New Orleans.

ROBERT HUGHES.

FRIDAY, MARCH 12, 1858.

ROBERT HUGHES recalled.

Cross-examination by Hon. L. D. Evans, counsel for the memorialists.

Question. State if you know whether Judge Watrous has any land scrip, certificates, or warrants located on the La Vega grant?

Answer. Yes, sir. I have seen the map in the office, and there are, I think, sixteen scrip or land warrants—whatever they are. It is scrip or land warrants. I think they amount to something like 10,000 acres, and are located in the prairie of the La Vega grant. They were not located, however, by Judge Watrous with these persons interested in this land, but by Mr. Cordova before they obtained it. They were sold with the land.

Question. State all the evidence in the case of *Lapsley vs. Spencer*, in the United States district court, to prove the genuineness or authenticity of the power of attorney of the 5th of May, 1832?

Answer. I do not recollect that there is any evidence as to the authenticity of that paper, except the deposition, before referred to, of James Hewitson. There was testimony taken subsequently in regard to the authenticity of that instrument and its validity, as to whether it was properly executed or not.

Question. Did you offer Thomas M. League as a witness in the case of *Lapsley vs. Spencer*?

Answer. I do not think I did. I do not recollect having done it. I knew he was interested. He would have so answered if he had been sworn and I had asked him. I do not recollect it. I do not think I did. The record, perhaps, may show whether he was introduced for any purpose. He may have been introduced in regard to affidavits.

Question. State whether you did not offer him as a witness?

Answer. I do not think I did. I understand the question as addressed to the case of *Lapsley vs. Spencer*.

Question. When the title papers were first handed to you by Thomas M. League, was the power of attorney of the 5th of May, 1832, included?

Answer. A copy of it was; a copy certified by the commissioner of the general land office and the Spanish clerk.

Question. Was that paper recorded?

Answer. I think it is recorded.

Question. At whose instance was it recorded?

Answer. At the instance of Mr. League in the first instance, and then, when I brought further proof, as I have already stated, it was sent by me to the clerk.

Question. What was the proof upon which it was recorded?

Answer. The proof upon which it was recorded was, in the first instance, according to my recollection, the affidavit of James Hewitson, taken before the clerk of the county court, in Galveston. After-

wards I got the testimony taken by affidavit before the county court of Austin.

Question. Did you send it by mail?

Answer. I did.

Question. When?

Answer. I do not recollect whether it was in 1854 or 1855. It was in the summer of 1854 or 1855 when I was there. I was there in both years. The other day, in talking with the witness, Mr. Spencer, I thought it was 1854, but I am not sure that it was in that year. It was either in the summer of 1854 or 1855. I was at Austin, and met with this additional witness by accident. He was introduced to me by a gentleman there. I took his affidavit before the clerk of the county court, and immediately sent it off to be recorded.

Question. To whom did you send it?

Answer. It was directed, I think, to the clerk of the county court. I think Illinsworth was the clerk at the time.

Question. Did you register the letter?

Answer. I do not know whether I did or not.

Question. Did League send it?

Answer. I sent it that time; League had sent it before.

Question. When did League send it?

Answer. Sometime before this. I do not recollect when. The affidavit was taken at the time the deposition of Mr. Hewitson was taken, at Galveston, by my son. That is the time the affidavit was made upon it, and upon that it was sent. That affidavit was taken, I believe, at the same time. If not taken at the same time it was taken six or seven months afterwards.

Question. State, as near as you can, when Hewitson's affidavit was taken?

Answer. I think it was at the time the deposition was taken at Galveston by my son; but I am not certain about that. He was there some time afterwards, and it may have been at that time. The time I cannot fix upon exactly.

Question. Did League send it by mail?

Answer. I believe he did. I think I have some recollection of his having said he was going to send it by mail.

Question. Do you know how the original found its way into the land office at Austin?

Answer. I can state information from a man who had the control of it a long while. That is all I know about it.

Question. Do you know nothing, of your own knowledge?

Answer. Nothing at all. I only found it there at the time I speak of having withdrawn it. If the paper was here it would show, by the memorandum upon the back of it, when I withdrew it.

Question. Where was it at the time you furnished Mr. Hale with a copy?

Answer. I stated in my communication yesterday all I know on that subject.

Question. You stated that it was within your reach?

Answer. In my reach, but not my immediate reach.

Question. Where was it when you said that it was within your reach?

Answer. I do not know. I said that it either had gone off to be recorded, or Mr. League had it. Nobody else had it besides Mr. League and myself, except when it was in court.

Question. Where was League during the trial of *Ufford vs. Dykes*?

Answer. I do not know.

Question. At the time you furnished Hale with a copy, was the original in the land office?

Answer. I think I had withdrawn it from the land office, as, I think, I have said before.

Question. Does that copy form a part of the record in the case of *Ufford vs. Dykes*?

Answer. I do not know. I assisted to make out a bill of exceptions. Whatever bill of exceptions is made out, whether perfect or imperfect, I assisted to make.

Question. At the time you furnished Hale with a copy, was the original in the land office then?

Answer. My recollection is, that conversing with Mr. Hale he and I differed about it. I not being the only person interested, it was a question whether I could withdraw it. There was some discussion between himself and myself about it. That is my recollection.

Question. When did that trial take place?

Answer. You will see by the record.

Question. Do you not know that it was withdrawn from the land office at that time?

Answer. I believe it was. I will not make any statement haphazard about it.

Question. You were counsel in that case?

Answer. I was one of the counsel.

Question. Who employed you?

Answer. Mr. Thomas Hughes, who then lived in Georgetown.

Question. Was he one of the defendants?

Answer. No; he was counsel employed by the defendants. He came to Galveston to attend to it. He, in the first place, employed Mr. Hartley, and then he employed me.

Question. Are you related to him?

Answer. No, sir. He is a son of John Hughes, Washington county, Kentucky.

Question. When was Hale employed in the case of *Lapsley vs. Spencer*?

Answer. I do not know, certainly; I was absent from home when information was received of the taking of the deposition of Tomas de la Vega, in Mexico; when I returned I was informed of what had occurred. The deposition was shown to me, and I was informed that Mr. Hale had been employed to assist in the case. It was a short time after it had been taken—two or three months—that I received information of it.

Question. Is Judge Watrous related to any of the parties in the case of *Lapsley vs. Spencer*?

Answer. Not that I know of.

Question. What were your reasons for thinking that John Taylor was counsel for all of the defendants except Spencer?

Answer. I think it will be found, if I am not mistaken, that he filed answers in all the cases. I saw him in court. I did not see anybody else acting for these parties, and there was none that I know of.

Question. Was John Taylor counsel in the case of *Ufford vs. Dykes*?

Answer. He was not, that I know of.

Question. What was said about John Taylor appearing in these cases?

Answer. I do not recollect. If you will ask me any particular thing, and I know it, I will answer.

Question. You do not recollect that anything was said?

Answer. I do not know that anything was said or not, except that it may have been talked about. I do not know anything about what was said.

Question. You say from the feeling had by counsel on both sides, in the case of *Ufford vs. Dykes*—what feeling?

Answer. The excitement produced by the question, which was an important one.

Question. What was the question?

Answer. I have already stated it; it was whether the title the plaintiff claimed under was void; a previous title to possession having issued on the same concession in another place.

Question. Did you participate in that excitement?

Answer. Just like any other lawyer who is excited about his case; just the same way in which you would be excited. It was an interesting question, about which there were few authorities to be found.

Question. Did Hale participate in the excitement?

Answer. As much as he does in any excitement. He was vehement, and urged his point with great force, as he usually does.

Question. You have stated that Judge Watrous has a large amount of landed property, and that you know all about it. Now state the character of the titles under which he claims his land.

Answer. When I said I knew all about him, I did not mean that I had descended into the minutiae of his titles. I knew that he owned land on the Trinity river. He claimed land on the Brazos. He claimed land on the Colorado.

Question. By what titles?

Answer. He claimed titles to a large amount of land, on the Trinity river, in virtue of locations made by his brother Nathaniel, during his life. He claimed land on the Brazos—the King claim—by virtue of a purchase made during the lifetime of his brother. And he claimed a part of the Santiago del Valle claim.

Question. Has he not a very large amount of land?

Answer. I think he has 10,000 or 15,000 acres on the Trinity, claiming with his brothers and sister; and there were two or three leagues, part of the King claim. I do not know how much his claim

is in Santiago del Valle ; when I became acquainted with his interest, it was 4,000 or 5,000 acres. He had claimed some locations, which he removed, on the tract of land including the town of Corpus Christi, a league or half a league, I don't know how much. I do not think it could be called a large interest for a man engaged, as his brother had been, in speculating in lands in Texas. It is a good interest ; I am informed it is very fine land. I have seen the land on Onion creek. I am told the land upon the Brazos—the King claim—is fine land, perhaps as fine as there is in Texas. As to the quality of the land on the Trinity, I do not know anything about it, even by information.

Question. Where on the Trinity?

Answer. It is some creek in or near the Tahuacano hills. I don't recollect anything more.

Question. Does not a large amount of these lands depend upon the questions which were being settled in his court?

Answer. I have said in my former examination, I think, that when he made the purchase the case of *Hancock vs. McKinney* was depending, and it was thought that that would settle the general principles in this case. When it was determined, it did not settle all of these cases, because of the difficulty as to the question of forfeitures for failure to perform conditions, which the committee will see when they read that case. I stated, further, that those things were settled afterwards. I do not think there were any of the general principles applicable to those titles to the eleven league grants, except as to the statute of limitation, which were unsettled at the time of the decision of the supreme court the other day. At the time this purchase was made, the case of *Hancock vs. McKinney* had been determined, and that settled some of the most important principles. Other cases, to which I referred in my former examination, have been determined since.

Question. Did not a large amount of the land of Judge Watrous depend upon these disputed questions?

Answer. As to the Onion creek land, those questions of general principles applied to it. He has an interest in that land, and that interest involved these questions. I will show that they did not all depend upon the same question.

Mr. Evans. Don't go into details.

Witness. I want to show what did depend upon it and what did not. The same general principles applied to the King claim, with the addition as to the question of imperfect execution of title of possession which has since been settled. The balance of the general principles referred to are now settled.

Question. Do you know the character of title to most of his lands?

Answer. I know the character of title depending upon the grants mentioned ; as to lands on the Trinity and the other locations, made by his brother, I do not know whether they were made by certificates or warrants. They did, of course, depend upon locations made since the creation of the republic, and they did not depend upon the same principles as the other cases.

Question. Have you a knowledge of the probable amount of lands held under the old grants you speak of?

Answer. I have enumerated all I know of. I have stated that there were two or three leagues in the King claim. What was the interest previously, I don't know. When I first heard of it he had four or five thousand acres. His brothers and sister were interested in the Onion creek ten-league grant. That is all I know besides this case. This purchase they made.

Question. You stated, to a question propounded to you by Judge Watrous, a good deal about the excitement against the federal court, the unpopularity of its judge, the clamor, &c.; will you state to the committee whether you don't know that a great deal of that clamor of which you speak arose out of the suspicion that Judge Watrous was interested in questions litigated in his court?

Answer. I cannot say anything on that subject. I do not know of any such thing.

Question. Was there not a suspicion, amounting to clamor, that he was interested in the fraudulent land certificates?

Answer. I cannot say there were suspicions, but I will say that there were demonstrations of opposition to him on that subject. I suppose it was founded upon a suspicion, or something else. I don't know what.

Question. Is not the impression in the community general that he is interested with League and other speculators in that class of titles?

Answer. I never heard anything on that subject, except what I heard in the Judiciary Committee room. When this question was examined before, I recollect of hearing of proof as to the general opinion on that subject.

Question. Have you not heard that he had favorites in that court, to the exclusion of other reputable attorneys?

Answer. I have heard it stated frequently that Judge Watrous had favorites in that court. Mr. Hale and myself were specified in a former examination. The committee can see what the testimony is on that subject; it is before them. I have heard the intimation frequently.

Question. Who did you hear speak of his decision on the statute of limitation?

Answer. I do not know that I could specify any particular individual. It was the conversation among lawyers. I have heard it in various parts of the State frequently given as a reason for feeling against Judge Watrous that there was a supposed conflict between him and the supreme court.

Question. What is the probable value of the property in litigation in the Cavazos suit in Judge Watrous' court?

Answer. I have no idea. I never had anything to do with that case or the land involved in it until lately, and I know nothing about its value.

Question. Was not John Trainor the agent of Cavazos and wife, and of all the plaintiffs in the several suits?

Answer. I cannot say anything about what he was, except as I find it in this record.

Question. Is he not the son-in-law of Rafael Garcia Cavazos?

Answer. I understand he is somewhat connected with some of these Mexicans ; but I do not know who they are.

Question. Is not he the same John Trainor who was sent to Mexico to hunt up testimony to authenticate the power of attorney of 5th May, 1832, under which La Vega and others claim?

Answer. I think he is the same man.

Question. Who sent him there?

Answer. I do not know who sent him there ; I can say who went with him, from information from him and the gentleman himself, and I suppose that he is the man who took him there. It was Thomas M. League. I can say as to what I suppose as to other parties, but I do not know of my own knowledge.

Question. Have you any information as to the amount paid Trainor?

Answer. I do not know anything about it, except what is stated in the depositions of Mr. Trainor and Mr. Gonzales.

Question. When John Trainor was conveying the witness Gonzales from Saltillo to New Orleans, did he not take Gonzales before a justice of the peace in Rio Grande city and induce him to sign a writing?

Answer. I do not know. If any testimony has been given about it, it will be found in one of these depositions.

Question. Was there any instrument executed by Gonzales before a justice of the peace?

Answer. I do not recollect anything about it.

Question. Do you know anything of any testimony given by Gonzales while in the care or in the company of Trainor?

Answer. I do not recollect. I recollect some conversation on that subject, which, if it be competent, I will state. I do not know anything at all about it, of my own knowledge. I never saw or heard of Mr. Gonzales. I had seen Mr. Trainor, but I was unacquainted with him before the time they travelled from Mexico to Galveston, on their way to New Orleans, when I went over with them.

Question. Have you never seen any paper executed by him in connexion with or in relation to the power of attorney of 5th May, 1832?

Answer. Not that I recollect, except his deposition taken in the case in New Orleans.

Question. Do you know anything of Trainor attempting to authenticate the power of attorney by that witness at Rio Grande city?

Answer. I do not know anything about it.

Question. In the return from New Orleans to Mexico, did not Trainor keep this witness Gonzales in his state-room and prevent every intercourse with passengers on the steamer?

Answer. If he did, I do not know of it?

Question. What would it have cost to procure the deposition of Gonzales at Saltillo?

Answer. I have no idea.

Question. What would be the probable cost?

Answer. I do not know what the fees are there, or what the authorities charge for these things, and cannot say anything about it.

Question. I want to get the probable cost of authenticating the power of attorney?

Answer. I cannot say, without having some basis on which to found my opinion; I could make a conjecture, but that is all.

Question. When did you first see the deposition of Tomas de la Vega?

Answer. I saw it at the time I spoke of, when I returned home some time last summer, and when, as I said before, Mr. Hale was employed as assistant counsel; that was the first time I saw it; that was a week or ten days before the election on the first Monday in August.

Question. Was there any mark on the document you offered in evidence in the Lapsley case by which it could be identified as the same withdrawn by you from the land office?

Answer. There was a certificate of it from my son, who was the commissioner that took it, stating that it was the document referred to in the depositions which he enumerates, enumerating the cases that were depending in New Orleans. I think it was marked A, and had his name signed to it, and the signature of Dr. Hewitson.

Question. Was there anything to identify it as the same that was withdrawn from the land office?

Answer. What I have stated. There was the certificate of my son, the commissioner, that it was the document referred to in the depositions taken before him. He refers to it as document A, and as having on it the name of J. Hewitson. I think these are merely stated from recollection, not having the document before me.

Question. When was that certificate placed on it?

Answer. I do not know. I suppose it was done at the time that he made out the depositions. I suppose he made the certificate then, and delivered the depositions to me to carry over.

Question. Was that the only evidence identifying it as the same?

Answer. The judge, in the record, says that there was other evidence to satisfy him; and I was examined before the court at New Orleans as to whether it was the same document.

Question. Is your evidence the only evidence?

Answer. I do not recollect any other besides that which appeared on the document itself, or annexed to it.

Question. Do you not know there was no other evidence?

Answer. I do not believe there was any other.

Question. Was the power of attorney from Santiago del Valle, authorizing Williams to sell, in the Hancock and McKinney case?

Answer. I do not know. It is a long time since I saw that record.

Question. Have you information that Judge Watrous went to Mexico in company with League, Cameron, Trainor, and others?

Answer. I have information that Judge Watrous went there in company with John Cameron. I have no information in relation to his going there with anybody else.

Question. How long did they remain there?

Answer. I do not know. They went, as I understood from both

of them, to Monterey. That is my recollection. I may be mistaken about it.

Question. Do you know whether they went to Saltillo?

Answer. I do not know. I do not think they did. I cannot say whether it is so or not.

Question. What is the value of the land of Powers and Hewitson in litigation in Judge Watrous' court?

Answer. There are no cases in Judge Watrous' court now intended to be prosecuted, except those that relate to the two eleven-league grants made to Powers and Hewitson, and one to Peña. I suppose they are about forty-eight thousand or forty-nine thousand acres each, and are worth from one to two dollars an acre, or perhaps more.

Question. Is not Cameron largely interested in lands in litigation in Judge Watrous' court?

Answer. Yes, he is interested in one eleven-league grant, and in two two-league grants.

Question. Where has Sam. Williams resided since 1848?

Answer. He has resided all the time, since I knew him in 1848, in Galveston.

Question. Were you ever United States district attorney?

Answer. A short time.

Question. What time?

Answer. From spring, 1849, till my commission expired.

Question. Did your commission expire, or did you resign?

Answer. It expired, and I was not nominated to the Senate.

Question. Was there more than one trial in relation to the Ufford case?

Answer. I recollect but one.

Question. Where has this power of attorney been for the last several years?

Answer. I have already stated that it was filed as evidence in the court in the case pending. Since I withdrew it from the land office it has been either in court, or in my possession, or in the possession of Mr. League, or on the way to or from, or at the place where it was recorded.

Question. Did you draw the deed from Tomas de la Vega to League?

Answer. No, sir; I did not. It was made in 1840, when I was living in Mississippi. There was an endorsement on the back of the deed, made by Samuel M. Williams, attorney in fact. It was what might be termed a confirmation.

Question. Was that done by you?

Answer. It was not. It is in the handwriting of Samuel M. Williams.

Question. Did you draw the deed from League to Lapsley?

Answer. I do not think the deeds are in my handwriting. I think I drew a form, and that some of these forms were copied by my son.

Question, (by Mr. Billingham.) When you speak of Powers and Hewitson, what Hewitson do you refer to?

Answer. James Hewitson, who proved, or attempted to prove, the power of attorney.

Question, (by Judge Watrous.) Do you know of my having purchased any lands in Texas, since you came there, but this purchase of the La Vega lands made with Mr. Lapsley?

Answer. I do not know of any other purchase. I never heard of any.

Question. Be so good as to state whether I have any land the title to which depends on the decision of the question raised in the Ufford and Dykes case?

Answer. If you have any that depends on that question I do not know of it.

Question. Is not the question raised there peculiar, so far as you know to that case?

Answer. I think it is peculiar to that case.

ROBERT HUGHES.

MONDAY, MARCH 15, 1858.

Examination of Robert Hughes continued.

Question by Judge Watrous. You have been asked a question about my going to Mexico with Dr. Cameron and others, and you replied that I went with Cameron. Do you know what my business on that visit was?

Answer. I know, from conversation with Dr. Cameron and you, what your business was. It was to look at and examine a silver mine, and to make the necessary arrangements in regard to it for the purpose of carrying on mining operations.

Question. Have you heard any complaint of favoritism since the examination of 1852?

Answer. I do not recollect having heard anything of it since that time.

Question by Mr. Taylor. I do not understand that any time was fixed in regard to Judge Watrous' going to Mexico; about what time was it?

Answer. My recollection is, that it was in 1856. I think so from circumstances which I now recollect.

Question, (by the chairman.) You speak of Mr. Hale's being employed in your absence in the Lapsley cases; who employed him?

Answer. I do not know certainly, but I think that Mr. League told me, when I came back, that when the La Vega deposition, or a copy of it, was brought there, he in consultation with Judge Watrous in regard to it, suggested the propriety of employing Mr. Hale, for the reason principally that I was not there, as he thought it necessary that something should be done on the subject.

Question. You speak in your testimony of the principles involved in the Ufford and Dykes case; I ask you if the same power of attorney was not necessary to sustain that case as was in the Lapsley cases?

Answer. Yes, sir ; the same question would have arisen if it had been made. The same power of attorney was involved in both cases.

Question. It was common to all the cases ?

Answer. Yes, sir.

Question, (by Mr. Evans.) What is the amount of lands in which Hewitson and Powers were interested ?

Answer. I do not mean to say that Hewitson and Powers were interested themselves in these claims, because Dr. Hewitson has no interest in them, except an interest to recover his purchase money, if he is entitled to it, for he sold out to James Powers and Duncan S. Walker.

Question. Were these parts of the concession in the eleven-league grant ?

Answer. I stated that there were two eleven-league grants ; one each to Powers and Hewitson, and one to a man named Peñe, but I did not state that that was now claimed to be owned by James Hewitson. There was another eleven-league grant also claimed by Hewitson and the other parties in interest ; that was a grant to Francisco del Trado ; but that has been abandoned.

Question. State whether Thomas M. League was offered by you as a witness in any of the Lapsley suits that were tried in the United States court at New Orleans in 1856 ?

Answer. I cannot say ; I have no recollection whether he was or not. I can say this in regard to it, that I know he had an interest in the matter, and that I am satisfied, if he had been questioned about his interest, he would have stated it. Therefore I suppose I did not offer him.

Question. Say whether he was offered or not ?

Answer. I do not believe he was.

Question. Do you know where the grant of José Maria Aguirre is located ?

Answer. I do not think that the form of the grant was filled up with the boundaries, but I think there is a survey, found in the land office, which locates it on the west side of the Brazos river, below the mouth of the Bosqué. The grant was never perfected.

Question. Was there any other evidence, besides the proof contained in the deposition of Hewitson, to make the power of attorney of the 5th of May, 1832, competent evidence in the case of Lapsley *vs.* Spencer, decided in the United States district court at New Orleans ?

Answer. I have stated what evidence I know of, and I recollect no other. That is all I can answer about it.

Question. Had that document been registered in Texas, under the laws of Texas, at the time it was produced in evidence at New Orleans ?

Answer. When testifying about it the other day I was inclined to believe that it had been, but I have since been doubting about it, and I cannot now say with certainty whether it was or not.

Question. Was there on this document any file mark, certificate, or other evidence of its registration ?

Answer. I do not recollect.

Question. State what other evidence, if any, has been obtained of the genuineness of the signaure to the said power of attorney since the trial of the case of *Lapsley vs. Spencer*?

Answer. The two depositions on that subject are here, as I understand; the deposition of Tomas de la Vega on one side, and the deposition of Juan Gonzales. There was also the deposition of the present keeper of the records in Saltillo, and the deposition of Samuel M. Williams.

Question. At the time you were called into the *Ufford vs. Dykes* case, did the pleadings put in issue the Aguirre grant under which the plaintiff, Ufford, claimed?

Answer. I suppose it did. My recollection is, that there was a plea of not guilty in it; and if so, it did put that grant in issue, of course.

Question. Are there many settlers on the land included in the Aguirre grant, on Williamson's creek?

Answer. I know nothing about it, except that I saw in this record the names of the defendants.

Question. I mean this grant of the land for which judgment was obtained?

Answer. I suppose there were a good many settlers upon it.

Question. What disposition was made of it?

Answer. I do not know. Mr. Thomas Hughes, in calling for our file, had a difficulty with them. There was an end of it, and I had nothing to do with the case since. I do not know what has been done with it since.

Question. Have you any information of a suit instituted by M. D. Herring, esq., of Waco, against Eliphas Spencer?

Answer. There was an interrogatory sent down with a commission to take my testimony in a cause brought by Marcus D. Herring against Spencer for fees for trying the case in New Orleans.

Question. Do you know what proceedings were had; if there was any attachment issued against the property?

Answer. I do not know anything about the proceedings.

Question. Who was the counsel for Herring?

Answer. I do not know.

Question, (by Mr. Billingham.) Did Judge Watrous enter into any arrangements with Dr. Cameron relating to the silver mine he went to examine?

Answer. I think he did. I think he told me so.

Question. So as to become interested in it?

Answer. I think so.

Question. With Dr. Cameron?

Answer. Yes; and some other persons. I do not know who they were.

Question, (by Judge Watrous.) Those several suits that you were asked about—the Powers and Hewitson, and Prado, and Peña suits—when were they commenced; was it before or after 1850?

Answer. They were commenced in the latter part of 1850 or after 1850. It was, however, after the 17th of April, 1850.

ROBERT HUGHES.

EXAMINATION OF ELIPHAS SPENCER.

TUESDAY, MARCH 2, 1858.

In the matter of the investigation of the charges against the official conduct of Hon. John C. Watrous, United States district judge for the district of Texas, Eliphas Spencer, having been summoned to attend the committee as a witness, was sworn and examined.

Mr. Robert Hughes, with leave of the committee, appeared as counsel for Judge Watrous.

The witness (Spencer) was first examined by the committee, and testified as follows:

Question, (by Mr. Billinghamst, of committee.) What is your age, residence, and occupation?

Answer. My age is fifty-five years; my occupation is that of a farmer; I reside in McLennan county, in Texas.

Question, (by Mr. Billinghamst.) Do you reside on what is commonly called the La Vega eleven-league tract, opposite Waco?

Answer. There is some doubt about that, although I was sued as living on it. The doubt was that, according to the county map, the Manchaca line was a little north to where I live, which the La Vega eleven-league grant was said to bound, commencing on the northwest corner. I filed certificates on the land in October, 1847; it was surveyed, I think, in the year 1848; I settled on it in November, 1847, soon after filing the certificates; I have continued to live there until now.

Question, (by Mr. Billinghamst.) Did you have any other title, or did you take steps to strengthen or accumulate title?

Answer. I bid the land in for taxes in the year 1849, I think; I got a tax deed in 1850, if I am not mistaken, after the time had expired for redemption.

Question, (by Mr. Billinghamst.) Did you record that deed; and if so, when?

Answer. It was recorded in Springfield, the place of recording for Limestone county, where the land then was. This portion of Limestone county was afterwards erected into McLennan county; the deed was recorded immediately after it was made, but I can't tell the precise time.

Question, (by Mr. Billinghamst.) In what condition was the land when you went upon it?

Answer. It was very heavily timbered, and a tremendous thicket was on it; it was about half a mile or less from an Indian village; I was the only settler on the Brazos that far up; I was the extreme settler at that time; there was an Indian agency or trading-post within about four miles; no part of the eleven-league La Vega grant was settled or improved except by Indians.

Question, (by Mr. Billinghamst.) How many settlers were there upon

this eleven-league tract on the 1st of July, 1850, and what was the general extent, as to land, of their claims?

Answer. As near as I can recollect, there were about three or four settlers on the land at that time. I claimed 1,920 acres; the Bartons claimed 640 acres; James Marlin located on the land one-third or two-thirds of a league, I am not certain which; he had some improvements; there was a military post on the land before that; I recollect another settler was a Mr. Sutton; what amount he claimed I don't know; I recollect also a Mr. Duncan and a Mr. Warren, and I think a Mr. Pucket; these are all the settlers on the land I can recollect now; the extent of their claims was 320 acres each; Pucket bought of Cordover, the agent of Mrs. St. Johns.

Question, (by Mr. Billinghamst.) Did you attend a term of the court held by Judge Watrous at Galveston, in April, 1851.

Answer. I did.

Question, (by Mr. Billinghamst.) Were you present in court at that term when the suit in which John W. Lapsley was plaintiff and yourself defendant, was called?

Answer. Yes.

Question, (by Mr. Billinghamst.) Was it called in open court?

Answer. I think it was.

Question, (by Mr. Billinghamst.) Do you know whether your case was called or not?

Answer. Yes; I am pretty certain it was called.

Question, (by Mr. Billinghamst.) State if at that time anything was said by Judge Watrous, or any other person or persons present, as to the interest of Judge Watrous in that suit, or in the Lapsley suits.

Answer. If anything was said, I did not hear it.

Question, (by Mr. Billinghamst.) What was your business at Galveston at that time; how long did you remain there; and did you hear anything touching the interest of Judge Watrous in these suits?

Answer. I went down expressly to attend to the cases, as I had been notified by summons to attend the April term of the court; I think I was there about ten days; I heard nothing touching the interest of Judge Watrous in these suits.

Question, (by Mr. Billinghamst.) At that time, did you see any other parties, now claiming under the La Vega grant; if so, who; and what did he or they say, if anything, about the land?

Answer. I saw League, who was claiming a portion of the land, as he said, I think, and who was also agent of Lapsley; a compromise was talked of between us; I think he proposed the compromise, in which he offered me one-fourth of the land; I told him what I had heard of the title, before and since I had settled on the land, from the old settlers and from the surveyor; that Mr. Mitchell, the surveyor of what was then Robertson district, had told me the land was vacant, and advised me to settle on it; and that the old settlers had told me that the title was a conditional one, and fictitious and void; Mr. League observed at the time, and spoke with great emphasis, that we could get it whether, the title papers were signed or not.

Question, (by Mr. Billinghamurst.) When did you first learn that Judge Watrous was interested in that land?

Answer. About two weeks before I started for New Orleans, after the cases had been removed there.

Question, (by Mr. Billinghamurst.) In what year was that?

Answer. It was in the spring of 1855.

Question, (by Mr. Billinghamurst.) Were you in New Orleans when the suits were first brought into court there?

Answer. I was there when they were first called.

Question, (by Mr. Billinghamurst.) Was it just before that time, when you went to New Orleans, that you first heard of Judge Watrous' interest in those suits?

Answer. It was.

Question, (by Mr. Billinghamurst.) To what extent were those suits of Lapsley talked over among the settlers on the land from the year 1851 to 1854?

Answer. There had been a great deal of talk about them.

Question, (by Mr. Billinghamurst.) Did you ever, before the time you have mentioned, hear Judge Watrous' interest with Lapsley, or in the lands, spoken of by any of the settlers, or at Waco, or anywhere else by anybody?

Answer. Never, sir.

Question, (by Mr. Billinghamurst.) Did your counsel at Galveston ever advise you of Judge Watrous' interest?

Answer. No, sir; nor did any other person ever advise me of it.

Question, (by Mr. Billinghamurst.) Did you attend the court held by Judge Watrous at Austin in the year 1853 or 1854?

Answer. I did not attend at Austin at all while Judge Watrous held court there.

Question, (by Mr. Billinghamurst.) Who were counsel for the plaintiff in the Lapsley suits at New Orleans?

Answer. Judge Hughes, I think, was the counsel.

Question, (by Mr. Billinghamurst.) What did Judge Hughes state when these suits were called, or when he called them up, about their being defended or not defended?

Answer. I think he said he would like to have them tried at as early a day as would be convenient to the court, for he thought there would be no defence, and they could not take up much of the time of the court in trying them. After that I got up and said that I had some six hundred miles to defend my land, and I wished that time should be given me to prepare my evidence, and so forth; Judge Hughes observed, "Oh, Mr. Spencer, I did not know that you were in court, or any one, to attend to the suits." I think these were his words.

Question, (by Mr. Houston, of the committee.) Were you sued by Lapsley for this same land in the State court at Waco; if so, when, as near as you can recollect?

Answer. Yes; I was sued for the same land in the year 1853, as my memory serves me now; I cannot tell what time it was in 1853.

Question, (by Mr. Houston.) Did you, or not, attend the court at Galveston after the suit against you in the State court at Waco?

Answer. No, sir; the suits there had been moved to Austin.

Question, (by Mr. Tappan, of committee.) How many suits, in all, were brought against you for the land?

Answer. I have no knowledge but of two.

Question, (by Mr. Billingham, of committee.) Is not a suit pending against you in the United States court, at Austin, at this time?

Answer. If there is, I have never been served with a writ, to my knowledge.

The committee having here concluded their examination of the witness, Mr. Robert Hughes, counsel for Judge Watrous, was allowed to examine the witness, who testified as follows:

Question. Who prepared the memorial that you presented in your name to the House of Representatives?

Answer. I don't know.

Question. Did you do it yourself?

Answer. I directed Mr. Mussina to do it, and I expect that he did it.

Question. Did you read it before it was presented?

Answer. Yes.

Question. Where was it prepared by Mussina?

Answer. I think it was prepared at New Orleans?

Question. When was it prepared there?

Answer. I think it was soon after the suits were transferred to New Orleans?

Question. Did you furnish him the facts on which to make the statements in it?

Answer. I furnished him the facts, but not in that form exactly.

Question. Did you furnish him with any documents to be filed as evidence with the memorial?

Answer. I told him to go and get the record, and put in all the facts that were necessary.

Question. Did you obtain a copy of the title of possession to Tomas de la Vega, for the eleven leagues of land in dispute in that suit you have mentioned, certified by the clerk of the county court of Limestone county as a true copy from the records of that office, dated March 10, 1849?

Answer. I think my attorneys in New Orleans got the document. I ordered them to do so. My purpose was to get the power of attorney in that concession.

Question. When did you employ those attorneys?

Answer. I employed Mr. Wolf and Mr. Singleton the first time when I went down to New Orleans.

Question. Was not the first time you went down to New Orleans the time of which you spoke when I made the statement in the cases as to the defences?

Answer. Yes; it was the first time the suits were called.

Question. Did you ever have that certified copy you have just referred to in your possession?

Answer. I think not.

Question. Listen to the following extract from the second paragraph of the plea on page 355 of House document, Report No. 175, 3d session, 34th Congress:

“The apparent legal title to the land in controversy was fraudulently conferred upon and vested in said plaintiff by collusion between said plaintiff and the Hon. John C. Watrous, Thomas M. League and Thomas J. Frow, in order to litigate and establish said fraudulent grant before the federal court of Texas, presided over by the said Hon. John C. Watrous; and defendant avers that said Watrous and League, citizens of the State of Texas, and said Frow, a citizen of Alabama, are equally interested, and were the parties in interest in said fraudulent grant, and were the parties in interest at the time of the pretended transfer of said grant to said Lapsley; and said parties were domiciliated, as aforesaid, at the time of the institution of this cause or suit in the said federal court of Texas. All of which this defendant is ready to verify; and offering to verify, puts himself upon the country and prays judgment, &c.”

Now, state whether the facts stated herein are true.

Answer. They are, to the best of my knowledge and belief.

At this stage the examination of the witness was adjourned.

ELIPHAS SPENCER.

WEDNESDAY, MARCH 3, 1858.

The cross-examination of the witness, Eliphas Spencer, summoned to attend the committee in the matter of the investigation of the charges against the official conduct of the Hon. John C. Watrous, was resumed by Mr. Robert Hughes, counsel for Judge Watrous.

Question. What knowledge have you on the subject of the facts of that plea mentioned in your answer to the previous question?

Answer. It was a combination of circumstances, from which I drew my belief on the subject. My knowledge commences with the first deed from Mrs. St. John to Mr. League, and the circumstance of the small amount for which, with conditions, it was first transferred to Thomas M. League. The first deed on record went on to say that he paid seven thousand dollars, with the condition that he was successful in getting the land. The next circumstance on which my knowledge was founded was the selling of a small portion of the land to John W. Lapsley, who was living in Alabama, for the purpose, as I believe, of bringing the case into the jurisdiction of the United States court, presided over by Judge Watrous. The next circumstance on which my knowledge was founded was the continuance of it in that court for such a length of time—some three or four years—without trying the questions. The next circumstance was in Thomas M. League's compromising with the settlers on the land, and appearing to have everything to do with the matter. I have seen letters that have been written by Mr. Lapsley, stating that he would not compromise without consulting the other parties. The next circumstance on which my knowledge was founded was, that John C. Watrous acknowledged on the record that he had an interest in the land. The last circum-

stance I can mention on which my knowledge is now founded is the fact of Mr. Lapsley refusing to answer interrogatories touching the interest of Judge Watrous and of others, and as to all the particulars about the land, how he came by it, what he paid for it, what Judge Watrous paid for it, and so on, all of which questions he utterly refused to answer. This last circumstance confirmed my belief in the correctness of my judgment. I recollect now another circumstance on which I founded my knowledge. It was, that the power of attorney could never be gotten sight of. The first power of attorney gave no power to sell the land; the power of attorney they said they had given to Williams authorized the sale of the land, and I could never get a sight of it until the cases were tried at New Orleans. When I did see the power of attorney, my attorneys and myself believed it to be a forgery. That is the knowledge and belief I have as to a collusion in the transaction.

Question. You have stated, in answer to my question, facts from which you have drawn conclusions; now state whether you have any knowledge of your own of the facts stated in that plea, and if you have, state what it is?

Answer. The knowledge I have is the proof we have of the fact of the power of attorney being a forgery. I do not recollect of having any other knowledge.

Question. After having seen that proof, do you know that that proof is true?

Answer. I know it only as I would know it from all other authenticated documents as proof.

Question. Have you any other knowledge on the subject of the truth or falsehood of the facts in the plea referred to? If you have, state such knowledge?

Answer. I know nothing else that I can recollect of at this time.

Here the examination of the witness was adjourned.

ELIPHAS SPENCER.

THURSDAY, MARCH 4, 1858.

Continuation of the examination of Eliphas Spencer.

Question, (by Mr. Chapman.) I understood yesterday, in the course of your examination, that you stated among the facts on which you founded that affidavit, that Judge Watrous had concealed his interest for several years in that property. On referring to the notes of your evidence, I find that I was somewhat mistaken, except I connect your answer on cross-examination with your statement on the examination in chief. I wish you to say now, so as to have the matter clear upon the record, in connexion with that circumstance, what fact do you state?

Answer. It was spread on the record in 1854, I think, and I heard of it in the spring of 1855.

Question. Well, was it the circumstance of his having discovered

an interest in that property, or was it the fact of his having failed to communicate that interest, that operated on your mind?

Answer. I never heard of it before that time. I presumed it had not been disclosed before that time. It had not, to my knowledge.

Question. I wish to have distinctly understood what were the facts on which you made that allegation in the plea. Was it the disclosure of his interest, itself, or was it the failure to make known his interest, that induced you to think that he acted wrong?

Answer. It was the failure to make known his interest that I based it on.

Mr. Chapman. That was the way in which I understood the witness, although the record does not show his meaning precisely.

Witness. I knew nothing about his interest before. That is the way I intended to state it.

Question, (by Mr. Hughes, counsel for Judge Watrous.) Do you know, Mr. Spencer, that Judge Watrous concealed his interest for the length of time you state?

Answer. I know nothing more than it was not mentioned at the time, nor did I know it in court, or at any other place.

Question. Be so good as to answer the question; do you know it?

Answer. I know it perfectly well.

Question. How do you know it?

Answer. That is, that he did not mention it in court at the time the trial was called, as I stated heretofore.

Question. You say that was at the spring term in the year 1851?

Answer. That was so.

Question. When did you arrive at Galveston at that time?

Answer. I think in April of that year. I cannot tell the dates now.

Question. What day of the term did you first go into court?

Answer. I cannot tell the date.

Question. Were you there the first day of the term?

Answer. I think so, according to the best of my memory.

Question. How many times were you in court during the time you remained there?

Answer. That I cannot state; a good many times.

Question. Were you there every day or not?

Answer. I think I was there every day till the suit was continued.

Question. How many days did you say, the other day, you had been there?

Answer. About ten days.

Question. Now I want you to say distinctly whether it be true or not that Judge Watrous did not, whether you know he did not, disclose his interest in court?

Answer. No, sir; he did not in my presence.

Question. When the case was called?

Answer. He did not, to my knowledge, or that I heard.

Question. I want you to state that distinctly.

Answer. Yes, sir; I do state it distinctly.

Question. Did you ever attend any other term of that court, at Galveston, afterwards?

Answer. No, sir.

Question. I understood you also to say that you did not attend the court at Austin?

Answer. I did not.

Question. Then how do you know that Judge Watrous never did disclose his interest afterwards, till the time you speak of?

Answer. I had attorneys, and they wrote to me different times.

Question. Then you do not know of your own knowledge?

Answer. No more than I have stated.

Question. I ask you whether you know, of your own knowledge?

Answer. I know it under no other circumstances.

Question, (by Mr. Houston.) Do you know, of your own knowledge, whether he disclosed his interest?

Answer. I do not think he did; we were all living together as neighbors, and all had attorneys there; Mr. Taylor represented some of them; they wrote backwards and forwards constantly, and not a whisper of it I ever heard.

Question, (by Mr. Houston.) The question now is whether you can say, of your own knowledge, that he never did?

Answer. I say it, from my own knowledge, while I was there; when the suit was called the interest was not mentioned, in my hearing, in court.

Question, (by Mr. Hughes.) Will you answer the question to me; do you know, of your own knowledge, that from that time up to the time you mentioned just now, he did not disclose his interest?

Answer. I told you the circumstances under which I know he did not; I cannot answer the question in any other way than I have done.

After discussion between counsel and the committee:

Question, (by Mr. Houston.) Do you derive the knowledge from your counsel, or do you possess it of your own knowledge?

Answer. I said to the best of my knowledge, in the affidavit, and that is my best knowledge; I have no more knowledge than what I have stated.

Mr. HOUSTON. If the witness has no personal knowledge——

WITNESS. I can say that safely.

Question, (by Mr. Chapman.) Have you any affirmative knowledge that Judge Watrous did not disclose his interest in that suit?

Answer. I have no personal knowledge any more than I have stated.

Question, (by Mr. Craige.) The question is this: Do you know that Judge Watrous did not disclose his interest in 1851, at the time of holding the court in Galveston, or until you went to New Orleans?

Answer. I will answer that; that I had no personal knowledge of any other than the time while I was in court.

Question, (by Mr. Hughes.) In your answer, yesterday, you stated that this conveyance was made on condition. What knowledge have you on the subject?

Answer. I saw such a conveyance on record.

Question. Have you ever read it?

Answer. Yes, sir.

Question. You have stated already that there was a condition ; now is that true ?

Answer. To the best of my recollection it is true.

Question. Did you say anything before about your recollection ?

Answer. I think so.

Question. You now state that you have read it, and that, to the best of your recollection, that conveyance was made on condition ?

Answer. Yes ; that is the best of my recollection at present ; not the last deed ; I do not mean it ; I mean the first deed to Thomas M. League.

Question. Is this the one ? (pointing to a deed in the depositions.)

Answer. No, sir ; it is not in any of the books or records at all, that I have seen.

Question. Has it ever been on record ?

Answer. Yes ; I think it is on record.

Question. You say that the next circumstance that you knew was his selling a small portion of the land to John W. Lapsley ; do you know how much he sold ?

Answer. No, sir.

Question. Then how do you know it was a small portion ?

Answer. Mr. Lapsley told me so.

Question. Was it a small portion ?

Answer. I considered it a small portion ; I think it was one-fourth or one-fifth ; I think that a small portion for a man to hold, compared to the whole of it, 48,000 acres.

Question. Whom did Mr. League compromise with in respect to this land ?

Answer. He compromised with the two Kellums, to my knowledge ; at least he told me so.

Question. With whom else ?

Answer. With Judge Davis.

Question. Where does Judge Davis live ?

Answer. He lives there, on the land.

Question. In the neighborhood of the Kellums ?

Answer. Yes, sir.

Question. Was not that a part of the arrangements made with the Kellums ?

Answer. I do not know, sir. He told me he compromised with them.

Question. Who did ?

Answer. Mr. Davis.

Question. Did he tell you he had bought the land ?

Answer. Bought the land.

Question. Did he say anything about a compromise ; did he not say he bought the land ?

Answer. Well, I consider that a compromise.

Question. I ask you what he stated ?

Answer. He said he had bought the land for \$6 an acre ; and Mr. Donoho told me—"

Question. Was Mr. League present when Donoho made any statement about it?

Answer. No, sir; Mr. League did not say anything about Donoho, but he did about other circumstances. Nobody but Mr. Donoho told me about that compromise.

Question. You say something about Mr. Lapsley refusing to answer interrogatories; you say he absolutely refused; is that true?

Answer. Well, sir, I think so.

Question. Did you hear him refuse in court, or anywhere else?

Answer. Yes; I think I heard it in court.

Question. Try to recollect and see if the fact of his not answering the interrogatories was not because the judge refused to permit them to be put, because they had no right to ask the interrogatories?

Answer. It may have been that cause. I do not know; but I considered that the reason he objected to answer was, that he did not want to answer them.

Question. Did Mr. Lapsley ever say anything on the subject in court?

Answer. I think you (Mr. Hughes) did for him. You were his attorney, and you objected. I suppose it is the same thing.

Question. Do you recollect hearing the judge say that these were things which parties could not be compelled to answer, and that he would not compel him to answer?

Answer. I think I did.

Question. I understand you to say, in explanation, that you did not hear Mr. Lapsley absolutely refuse to answer?

Answer. No, I did not. Mr. Lapsley was present in court, but did not say anything about it. I think you said all that was said about it.

Question, (by Mr. Houston.) Was Mr. Lapsley present?

Answer. Yes, sir; he was present in court.

Question, (by Mr. Hughes.) Did I refuse to permit my client to answer?

Answer. My impression is that it did not go so far as that. As I understand it, the judge would not allow it to be received in court. Mr. Hughes objected to its being received.

Question. Was not my objection made to the filing of the plea?

Answer. Perhaps so. I do not know in what course exactly; but I know that was the principal cause of it.

Question. Then your answer is, that Mr. Lapsley did not absolutely refuse to answer?

Answer. I do not think that I heard Mr. Lapsley say anything about it. I do not think it went so far as that. I asked him through my attorney, and I considered his objection to answering was an objection to it. That was the way I considered it.

Question. You said that you never could get a sight of that power of attorney until the case was tried; now will you state whether, when I first went there, I did not deliver that document to Mr. Wolfe, and whether he did not keep it till I came to Washington and returned?

Answer. If he did, I did not know it.

Question. Did you ever see it in the possession of Mr. Wolfe or Mr. Singleton before the trial?

Answer. No, sir.

Question. Were you not present in the office when I had a conversation with Mr. Wolfe or Mr. Singleton, or both of them, in regard to my leaving it there till I came on to Washington; were you not sitting down and listening to it?

Answer. Not particularly about the power of attorney that I heard of.

Question. Did I not give him a packet of papers?

Answer. I do not recollect it. I know that Mr. Wolfe went away, and died before he came back, and the papers were left there in the office. I heard Mr. Singleton say so about the time the trial came on.

Question. You recollect Mr. Singleton saying then that the papers were in the office?

Answer. I think he said the papers were left there by Mr. Wolfe. That was about the time the term was commencing.

Question. You heard him say that?

Answer. I think I did, as well as my memory serves me.

Question. About the time the term commenced?

Answer. I think it was. That is the best of my knowledge on the subject at present. I know I never saw it; at least I have no recollection of it.

Question. You say here that when you got sight of that power of attorney your attorney and yourself believed it to be a forgery?

Answer. Yes, sir.

Question. What made you believe so?

Answer. Well, I can tell you the circumstances that led to it. The first was that we got evidence that the signing of the field notes in the old concession was a forgery. We got the evidence of Mr. Johnson, the surveyor. That led to suspicion. We looked at the paper, and I and the rest of the attorneys believed it was a forgery. Suspicion was cast upon it by its not being on record, and our not getting a sight of it before, and its appearing to be all in one handwriting, and a small piece of paper.

Question. What small piece of paper?

Answer. The small piece of paper attached round the sides of it to keep it up, &c. The letter A was marked upon it to show it was a certain document.

Question. Where was that letter A marked on it?

Answer. I think it was on one of the small papers attached round it.

Question. What was it?

Answer. I do not know; I suppose it was done by your son, the commissioner who took the deposition.

Question. To identify it, was it not?

Answer. I suppose so.

Question. Did not the attorney, or somebody else who was not an

attorney, practicing in that court, inform you that it was a forgery ; and was it not on that that your opinion was founded ?

Answer. Not that exactly. My attorneys did tell me they believed so, and I believed it too. My belief was founded on the fact of seeing the papers.

Question. Did nobody give you any information about it ?

Answer. My attorneys told me it was a forgery, but my opinion was not based on that in calling it so.

Question. Was not that when you saw the affidavits of James Hewitson and John N. Seguin proving the signature of Juan Gonzales annexed to it ?

Answer. I am not certain that they were annexed to it, but I think they were. I am not certain whether they were annexed to it or among the papers. It was there, however, I saw it.

Question. Was it not on record at the time you saw it ? Had it not been recorded in McLellan county ?

Answer. No, sir ; I saw no marks of recording on it. The power of attorney, I am very sure, was not.

Question. Have you any other evidence from what you concluded, at that time, and on what you formed your judgment, that that instrument was a forgery ?

Answer. As I said before, it was based on the former power of attorney, and the old concession not giving authority to sell, and seeing that this was being kept clandestine, we concluded that it was not a proper power of attorney.

Question. What do you mean by the words "kept clandestine ?"

Answer. I mean that it was not made known in court, or on record, or any other place.

Question. Do you say it was not on record any where at that time ?

Answer. Yes ; I say that the power of attorney was not, to my knowledge, on record anywhere. I understood, through my attorney, that it had been in court at Austin, but he went to look at it, and it had been withdrawn.

Mr. HOUSTON. That is hearsay evidence ?

WITNESS. Yes, sir.

Mr. HOUSTON, (to Mr. Hughes.) If you seek to have it the committee has no objection.

Mr. HUGHES. He put it in, and I have no objection to it.

WITNESS. Mr. Burr Lewis was the attorney.

Question. Did not Burr Lewis tell you it was in the land office and not in court ?

Answer. No, sir ; he said the clerk told him it had been filed there, but was withdrawn right after the court adjourned.

Question. Are you not confounding the withdrawal of it from the court at New Orleans with the withdrawal at Austin ?

Answer. No, sir ; I am not. This was before I went to New Orleans.

Question. I see on this record here what is called an affidavit and plea of *non est factum*. I will read it to you :

"Eliphas Spencer, sworn in open court, says that the decree pur-

porting and alleged to be the act of the most excellent señor governor, granting on sale eleven leagues each to José Maria de Aguirre, Rafael de Aguirre, and Tomas De la Vega, alleged by Santiago del Valle, secretary, in the following words, to wit :

“A copy of its original, which exists in the archives of this office, in my charge, to which I refer from where this copy was ordered to be taken by disposition of his excellency the governor, Leona Vicario, June 13, 1830, is not the act of his excellency the governor, nor was it done or executed by his order or authorization ; but affiant believes that the same was executed long after the date of said attestation by Santiago del Valle, by and through the agency and contrivance of Samuel M. Williams, and, being so executed, was a fraud upon the government and a nullity. Affiant further swears that the decree dated Leona Vicario, May 2, 1832, and signed ‘Letona,’ ‘Santiago del Valle, secretary,’ is not the official act of the then governor of the State of Coahuila and Texas, nor was it done or executed by his order or authorization ; but affiant believes that the same was fraudulently executed in October, 1833, by or through the agency or contrivance of said Samuel M. Williams. Affiant further swears that the survey of the grant of land claimed by plaintiff, signed ‘F. W. Johnson,’ without date, and purporting to be made in pursuance to the order or decree of ‘Lessassier,’ dated October 3, 1833, addressed to the principal and scientific surveyor, ‘Francis W. Johnson,’ was not made by said Johnson at all ; nor was said survey made by any legally authorized surveyor in pursuance of said order or decree of Lessassier, but the same was a forgery and a fraud upon the government.

“And affiant further swears, that the power of attorney, by virtue of which Samuel M. Williams sold the grant of land claimed by plaintiff, which said power is referred to and attempted to be proven by the deposition of James Hewitson, was never, in fact, executed by Tomas de la Vega, the alleged grantee of said land, nor was said power of attorney executed by the authorization or with the knowledge and consent of said Tomas de la Vega.

“E. SPENCER.

“Sworn to and subscribed before me this 13th May, 1856.

“J. W. GURLEY, *Clerk.*

“Filed in open court, with leave thereof, and in presence of counsel, 13th May, 1856.”

Are these facts true as you have sworn ?

Answer. They are true, according to my knowledge and the information that I got from my attorney.

Question. Did you swear to them according to your knowledge and belief ?

Answer. I think so. I intended to.

Question. See if that is on the record ?

Answer. I swore from information which I derived from seeing it myself, and from what my attorney said in the premises.

Question. What did your attorney in New Orleans tell you about this concession, made in June, 1830 ?

Answer. As near as I can recollect he told me the title had never been signed by the governor, according to law, and that, from the survey, field notes, and other parts of it, it was a forgery and fraud upon the settlers.

Question. Did he tell you he knew it was so?

Answer. The attorney told me so.

Question. Did he know it to be so himself?

Answer. I think so.

Question. Who was that attorney?

Answer. I think it was Mr. Herring.

Question. What part of the statement was on your own knowledge?

Answer. I saw the testimony of Mr. F. W. Johnson about signing the field notes. I paid Mr. Herring for going and getting the testimony. That was what my opinion was based upon. After we got his testimony we found it was a forgery. The affidavit of Mr. Johnson made it out clearly a forgery, because he says he always signed his name as official surveyor, and the signature to the field notes was but plain F. W. Johnson—no official act about it.

Question. Was not the order directed to F. W. Johnson?

Answer. That may be the direction; but he says, positively, that he never surveyed it.

Question. Did he swear that nobody else surveyed it?

Answer. Yes; for he always examined the field notes of his deputies, and signed them himself as official surveyor.

Question. Did he swear that none of his deputies executed that survey?

Answer. Not that he was aware of. He said that if so he would have signed the field notes with his name, as official surveyor.

Question. You say here:

“Affiant further swears, that the decree dated Leona Vicario, May 2, 1832, and signed ‘Letona,’ ‘Santiago del Valle, secretary,’ is not the official act of the then governor of the State of Coahuila and Texas, nor was it done or executed by his order or authorization; but affiant believes that the same was fraudulently executed in October, 1833, by or through the agency or contrivance of said Samuel M. Williams.”

How did you know that?

Answer. I stated it by my attorney's telling me the fact of the old concession, which I believe is the fact.

Question. I am talking about that issued in 1832, not the original concession of 1830?

Answer. I do not know anything about the concession of 1832. I took it all collectively together.

Question. Have you read any of these documents?

Answer. I think I have; but they are so mixed up, and without regularity, that I could not properly understand them. I always thought it was a fictitious document.

Question. Is this (repeating the foregoing extract as the decree signed Le Tona) true or false?

Answer. As to the act I do not know that it is ; but so far as signing the concession, I say he did not sign the concession to give you a title to the land.

Question. Answer the question whether this statement made in your affidavit is true ?

Answer. I know nothing about it except what my attorney said.

Question. What did your attorney say ?

Answer. I cannot recollect what was said exactly about that.

Question. Did you know, at the time you made this affidavit, that this thing was true or false ?

WITNESS. As to that particular paper ?

Mr. HUGHES. Yes.

Answer. I do not know that any particular one was mentioned. I depended on my attorney a good deal about it, telling me what it was in making my affidavit. He said that the title had never been signed by the governor, and I believed it myself.

Question. Answer whether you did know it at the time ?

Answer. I cannot answer in any other way. I did not know any particular thing, except the signature of the governor to the title. I did not know particularly about that paper.

Question. Did you know at the time it was done that that statement (repeating the extract as above) was true or false ?

Answer. I believed it to be true, or I would not have sworn it, of course.

Question. Do you know it to be true ?

Answer. I knew it through my attorney.

Question. Do you know it of yourself ?

Answer. I did not know it any other way than I tell you.

Question. As to this, is it true or false ?

"Affiant further swears, that the survey of the grant of land claimed by plaintiff, signed 'F. W. Johnson,' without date, and purporting to be made in pursuance to the order or decree of 'Lessassier,' dated October 3, 1833, addressed to the principal and scientific surveyor, 'Francis W. Johnson,' was not made by said Johnson at all, nor was said survey made by any legally authorized surveyor in pursuance of said order or decree of Lessassier, but the same was a forgery and a fraud upon the government."

Answer. There is Mr. Johnson's affidavit. It is not necessary for me to explain that. It shows it is a forgery.

Question. Is that fact true as you have sworn it to be ?

Answer. Yes ; I believe it to be true.

Question. But is it true ?

Answer. I cannot say it is, any further than that Mr. Johnson swears to it, and you have got his deposition. I have no doubt about it more than I have of my existence. He swears the signature is not his, point blank, without any "ifs" or "ans."

Question. Does he swear that the survey was not made by his deputy ?

Answer. Yes, sir. He says this : that when his deputies did make surveys, he examined the field notes and signed them officially him-

self, which is not done there. I do not know what else you can make of it.

Question. State whether this is true or false :

“And affiant further swears, that the power of attorney, by virtue of which Samuel M. Williams sold the grant of land claimed by plaintiff, which said power is referred to and attempted to be proven by the disposition of James Hewitson, was never, in fact, executed by Tomas de la Vega, the alleged grantee of said land, nor was said power of attorney executed by the authorization, or with the knowledge and consent of said Tomas de la Vega.”

Answer. I say it is true. Thomas de la Vega did not sign it. It is signed Tomas Vega.

Question. You say that that statement is true ?

Answer. It is true, to the best of my knowledge. I believe it to be true without any doubt about it.

Question. Here is a paragraph from your memorial :

“That the said Thomas M. League, combining and confederating with the Hon. John C. Watrous, sole presiding judge of the court of the United States for the district of Texas, for the purpose of falsely, fraudulently, and corruptly adjudicating and determining the validity of the said eleven league grant in the court of the United States, in and for the district of Texas, in which the said Watrous was then and there the sole presiding judge, the said Thomas M. League entered into a secret agreement with the said Watrous, judge as aforesaid, by means whereof the said John C. Watrous became entitled to a certain portion of the land, or the proceeds of the sale, upon the determination of the validity of said eleven league grant, in the court presided over by the said John C. Watrous as aforesaid.”

That is contained in the statement which you made to Congress ; is that true ?

Answer. I believe it to be true.

Question. Do you believe it to be true, now, that he was to have a portion of that land on the suit being determined by him, in his court, in favor of the validity of the title ?

Answer. I do believe so.

Question. And that is the charge you make against him ?

Answer. He was called part owner of the eleven league grant, and I think there was an execution sent up there to levy on it.

Question. And that is the charge which you made when this petition was presented, is it not ?

Answer. That is one of the charges.

Question. And I understand you to say that you believe that to be true ?

Answer. I do believe it to be true, strictly.

Question. Can you tell me what is the foundation of that belief ?

Answer. I have gone over that ground once ; if the chair says so I will go over it again.

Question. State your reasons for making that charge against Judge Watrous.

Answer. My reason was, as I said before, Mr. League's selling a

small portion of the land in controversy to Mr. Lapsley to give the United States court jurisdiction in Texas; and that Judge Watrous had it several years in his court and nobody knew that he had any interest in the land, at least as far as my knowledge extends.

Question. Is that all?

Answer. As I said before, the proving of the signing of the field notes to be a forgery, and the power of attorney a forgery; these circumstances led me to believe that Judge Watrous was colluding with the other parties to wrong me out of my homestead. That is what I believed then, and what I believe now.

Question. Were these all the circumstances on which you founded that belief?

Answer. And what my attorneys told me; they said there was no doubt in their minds that that was the fact.

Question. Is this true, sir, from your memorial?

"That after the removal of said suits to the said circuit court of the United States, in the city of New Orleans, the title of the plaintiff to the said eleven league grant was attempted to be sustained, among other documents, by virtue of an instrument, in writing, purporting to be a power of attorney from José Maria Aguirre, Thomas Vega and Rafael Aguirre, to Samuel May Williams, dated at the city of Leona Vicario, republic of Mexico, on the 5th day of May, 1832, which said instrument is a forgery, and known as such to the parties offering the same; all of which was done with the previous knowledge, advice and assent of the said J. C. Watrous, judge as aforesaid."

Answer. I believe it to be true.

Question. Is that the charge that you now make against Judge Watrous?

Answer. Yes, sir.

Question. And it is the one you made in that petition?

Answer. Yes, sir.

Question. It is stated in the memorial that Judge Watrous had an interest on the condition that he decided the title in favor of the validity of it in his own court. Was not that charge made by the person who wrote the memorial, and did you ever think of it till you found it in the memorial?

Answer. Why, yes, sir; long before, at the time the case was tried. Certainly I did.

Question. At the time that this power of attorney was offered in evidence in New Orleans had you any other evidence that it was a forgery than what you based on the fact of its being signed Tomas Vega instead of Tomas de la Vega?

Answer. Yes; as I mentioned before, the handwriting appeared to be all the same, and I think the jury thought so; they came down and got the advice of the court on it once; they said that they could not reconcile themselves to the validity of that power of attorney, and they did not agree.

Question. What did your attorneys tell you about that power of attorney in addition to what you have said about it; did they ever tell you that Mr. League and Mr. Lapsley knew it to be a forgery?

Answer. Yes, sir.

Question. Who told you?

Answer. Mr. Herring and Mr. Lewis, and I think Mr. Singleton.

Question. Did they tell you how they obtained a knowledge on that subject?

Answer. Yes, sir.

Question. How?

Answer. I think it was in the Dykes case that Judge Watrous decided in favor of the same claim, that it came out first.

Question. Did that fact furnish any information that they knew it was a forgery?

Answer. That is what Mr. Lewis said.

Question. Mr. Lewis said that it furnished evidence that it was a forgery?

Answer. That he had reason to believe it so from the circumstance.

Question. The circumstance you mention of his having decided on the same power of attorney?

Answer. Yes.

Question. Do you know that he decided on the same power of attorney?

Answer. No, sir, except from what Lewis said, and what you said here.

Question. Now turn to this paragraph in your plea, and state whether it is also true?

"The apparent legal title to the land in controversy was fraudulently conferred upon and vested in said plaintiff by collusion between said plaintiff and the Hon. John C. Watrous, Thomas M. League, and Thomas J. Frow, in order to litigate and establish said fraudulent grant before the federal court of Texas; and said Frow, a citizen of Alabama, are equally interested, and were the parties in interest in said fraudulent grant, and were the parties in interest at the time of the pretended transfer of said grant to said Lapsley; and said parties were domiciliated as aforesaid at the time of the institution of this cause or suit in the said federal court of Texas."

A discussion arose as to permitting this matter to be again gone over; but the examination was finally allowed.

Ayes—Messrs. Chapman, Craige, and Ready.

Noes—Messrs. Taylor and Billingham.

Answer. If I understand the question right, I believe it to be true.

Question. Do you make that charge now as one of the charges against him?

The phraseology of the question was changed thus: Do you adhere to, or withdraw that now?

Answer. I adhere to it; the same as I have done heretofore.

Question. In your examination in chief, you said you did not know whether you resided on the La Vega land or not; how far does the line, as you have stated, run north of your house?

Answer. Very little; it probably goes twenty feet north from my house. That is what I always thought was the line, but I do not know that it is.

Question. Does not the 1,920 acres that you claim extend north of that line?

Answer. No, sir; south of it. There is some that I claim that runs 200 or 300 yards north.

Question. Have you got improvements on it?

Answer. No, sir.

Question. You have no garden or fences of any description north of that line?

Answer. No, sir; I have not. It runs down to the Manchaca grant. I left the Vega grant. At least that is the way it is intended.

Question. Have you ever seen that line south of you that was said to have been found by the surveyors?

Answer. No, sir; I never saw any line. I have had surveyors there two or three times, and they never found any line connecting with the La Vega line.

Question. You say you made your location in October, 1847?

Answer. Yes, sir.

Question. Are you not mistaken?

Answer. No, sir; I am not mistaken.

Question. Do you not know that you made that location in 1848?

Answer. No, sir. I will tell you how it happened. We never could find the old Manchaca line or anything to start from. I altered my field notes to a certain tree to start from. The date was altered after that, but the certificates were always kept on the land. The tree was marked with my initial.

Question, (by Mr. Craige.) You made the location in October, 1847; the alteration was made a year after?

Answer. Yes.

Question, (by Mr. Hughes.) What alteration?

Answer. The line had been run, commencing at Mr. Barton's north-west corner, running south about 300 or 400 yards above my house.

Question. Was that where you made your first location?

Answer. The first one. It ran into the Manchaca line.

Question. And then you made the alteration?

Answer. There were no corners or lines to be found, and I had to make an alteration by making a starting point.

Question. How far north of your house?

Answer. 300 or 400 yards north.

Question. Then it included land that was not included in your first location.

Answer, I think it does—a little strip. I started from Mr. Barton's land, and it had to be joined.

The witness before signing desires to make an explanation.

Adjourned till Friday, at 10 o'clock a. m.

FRIDAY, MARCH 5, 1858.

Examination of Eliphas Spencer.

Before the examination of Eliphas Spencer was resumed, the witness was allowed to make an explanation of some portions of his evidence given yesterday. He said: It is probable that I may have confounded the two deeds together, the one given to League and the one given to Lapsley. I see the one given to Lapsley mentions \$7,000. I may be mistaken about them. It is six or seven years since I read the deeds, and I do not want to be positive about it. With regard to the papers left with Wolfe, I think Wolfe or Singleton told me the papers had been left there, but they were never read to me. With regard to the name of Seguin, it was slipped in without my knowing anything about it whatever. I have seen the name in none of the papers to my knowledge, and I do not think it occurs in the record of the case. I am made to say that Mr. Johnson swore that his signing was a forgery. I thought from the circumstance that he swore he did not make the survey, that it must have been a forgery, not that he swears so, for he does not use the words.

The examination of the witness (Eliphas Spencer) was then resumed by Mr. Hughes.

Question. As you came here from your home in the fall did you come through Galveston?

Answer. Yes, sir.

Question. Did you see Mr. League there?

Answer. I did.

Question. Did you see Judge Watrous there?

Answer. No, sir.

Question. Did you learn whether he had returned from court?

Answer. I understood so from Mr. League.

Question. Did you make any proposition to compromise with Mr. League?

Answer. Yes, sir.

Question. At that time?

Answer. Yes, sir.

Question. Did you state anything in regard to the reason why you had engaged in this prosecution of Judge Watrous? Did you not say that you had nothing against Judge Watrous, but that you were advised to present this memorial, and if you did you could thereby gain your lands?

Answer. No, sir; I did not say that; I tell you that plainly. Mr. League mentioned it himself; I did not. He said he had heard that I was a mere tool of Mr. Mussina, and I told him that was not so; that I had been wronged out of a great deal of money in chasing up this suit, being pushed about from pillar to post. Those were my very words.

Question. You say, then, distinctly that that conversation was addressed to you by Mr. League?

Answer. I do.

Question. Do you say distinctly and clearly you did not make the statement I have mentioned?

Answer. Yes, sir; I did not.

Question. Did you make any statement in regard to this prosecution of a like kind, or anything in relation to it?

Answer. I do not think I made any. Mr. League mentioned it himself, and the reply I made was: "I have lost a great deal by being driven from pillar to post to try these suits for this land, and" said I, "this is why I propose a compromise, because I am not able to follow the suit up."

Question. Well, then, I understand you distinctly to say that you made no such statement as that which I have put down in my question?

Answer. I did not, to my knowledge; I do not think I did.

Question. Do you know you did not?

Answer. I am very certain.

Question. You said yesterday that you had amended your location in 1848?

Answer. Yes, sir.

Question. Now, will you say that you did not write out a new location and present it to the surveyor?

Answer. Well, no; I made no new location.

Question. You wrote out a new location, which you say you intended for amendment. Did you not write out a new location, sign your name to it, and hand it to the surveyor?

Answer. I think not, sir.

Question. Was whatever was done done by yourself?

Answer. It was done in my presence, in the land office at Springfield.

Question. Cannot you say whether you did or did not do it, instead of saying you think it was so; that you were present, and it was done?

Answer. To the best of my memory, the certificates were there in the office, and I told him to alter the bounds of the survey. The certificates were never out of the office at all. The certificates made the boundary some three hundred yards higher up, taking in a small strip of land.

Question. Was not a new location written out?

Answer. No more than that.

Question. You say, "Eliphas Spencer," [reads.] Have you described the land which you then claimed?

Answer. I was living on it.

Question. Did not you do it?

Answer. No, sir; I did not. It must have been on the same land.

Question. You said before, part of it was not the same land.

Answer. I said, excepting the strip.

Question. I ask, whether you did not make the location in the usual form at that time?

WITNESS. The last time?

Mr. HUGHES. Yes. I ask, whether you did not make the certificates in the usual form?

Answer. Of course I did. I meant to say that the certificates were altered only just so as to make another boundary a little higher up—some 300 yards.

Question. When you made your location in the office, what claims were upon that land? What surveys had been laid down upon the maps?

Answer. The maps showed that there had been the Manchacca line, which is the only one that I know of that was on my lands. That is, according to the line on the map I mean. The corner never was found, that I know of.

Question. Was not the La Vega survey laid down on the surveyor's map?

Answer. Yes; I think it was marked on the map.

Question. Was not the northern boundary line of the Manchacca lands the southern boundary of the La Vega lands?

Answer. Yes, sir.

Question. Were not other surveys laid down on the map?

Answer. Not on my lands.

Question. None on yours?

Answer. No, sir.

Question. Then, Mr. Spencer, at the time that you made your location, you knew that there was an old grant on what you call your lands?

Answer. I only knew it by the marks on the map.

Question. If the Manchacca claim, which is laid down on the map, included your location, you would then be in the Manchacca claim, would you not?

Answer. I would be in it, according to the map.

Question. If you were included within the line of the La Vega tract, you would be on that claim, would you not?

Answer. Yes; included within the compass of what is struck off on the map.

Question. Did the map show that there was any vacant land there?

Answer. Yes, sir.

Question. Whereabouts?

Answer. It showed it, because the surveyor told me that the *eleven league* lands were vacant—that they were worthless. The colonial lands were good, but the *eleven leagues* were void, and were vacant. That is what the county surveyor told me.

Question. Which county surveyor?

Answer. Colonel Mitchell.

Question. What Colonel Mitchell?

Answer. The district surveyor of Robinson district.

Question. Have not the delineations of those surveys been continued on the district maps ever since?

Answer. I think so; but there are other surveys on top of them; all of them on the front of the river.

Question. You say you made the location, and you say that Mr.

Lapsley interfered with your homestead, and so forth. That was tried in New Orleans. Did you give any evidence of any title whatever?

Answer. My attorney said he did not think it necessary to put in the title; he intended to break it down on the fraud of the old grant.

Question. Did the court break it down?

Answer. No; I only tell you what my attorney said.

Question. Has it been broken down in the Supreme Court?

Answer. I do not know what the Supreme Court has decided. I understand that the decision of the Supreme Court, made about a week ago, confirmed the judgment at New Orleans.

Question. You say you made the location in October, 1847?

Answer. Yes, sir.

Question. Well, if you made the location in October, 1847, and the suit was not commenced against you until the 11th of January, 1851, how came it that, under your plea of the statute of limitations, you did not prove the fact that you had made the location by virtue of the certificate?

Answer. I do not know. I left it to my attorney.

Question. Did you give that information to your counsel?

Answer. Yes, sir.

Question. When you went to Galveston to attend to your case there, did you ever examine the docket as to the position in which the various suits—the eleven cases which have been enumerated so repeatedly—stood; which was first, and what was the order of all of them?

Answer. I think I did. I went to the clerk's office twice, if I mistake not.

Question. Which was first on the docket?

Answer. I cannot say now, sir.

Question. Was your case the first?

Answer. Not there, I think.

Question. It was not the first case on the docket?

Answer. It was at New Orleans. It was put first there. It was tried once, and afterwards tried over again.

Question. Well, was any but the first called at the time you speak of, at Galveston?

Answer. I think so, sir; I think they were all called.

Question. You stated, the other day, that your case was called. Now, is it not true that no case but one, and that one the first one, was called?

Answer. They were all called, if I mistake not; but it is so long ago that I cannot remember all the particulars.

Question. You cannot, then, state now whether your case was called or not?

Answer. I am pretty certain mine was called with the rest; but I do not think it was called first.

Question. Were all of them called?

Answer. I think so, sir.

Question. You think they were all called?

Answer. Yes, sir.

Question. Are you certain of that?

Answer. Well, I am not certain. It is so long ago that I cannot remember all the circumstances and things that took place at that time, but my impression is that they were all called.

Question. Did you not state, positively, the other day, that yours was called?

Answer. I think so. I know that it was called.

Question. And do you now think that they were all called?

Answer. I do; that is my impression.

Question. Have you any recollection on that subject?

Answer. Yes; I think they were all called.

Question. Have you any recollection on that subject, or do you conjecture that it is so?

Answer. No; I do not conjecture anything about it, for I was in court when they were called; and, as far as my knowledge goes, they were all called.

Question. Was any disposition made of your case when it was called?

Answer. I think it was laid over till the next term.

Question. Was it continued?

Answer. It was continued, as you call it.

Question. Was it continued by consent, or by the judge?

Answer. I think it was by the judge.

Question. Is that your recollection?

Answer. That is my recollection.

Question. How far were you from the court when this thing occurred?

WITNESS. What thing?

Mr. HUGHES. This thing about the calling of the cases. What part of the house were you in?

Answer. I could not say now, sir. I do not recollect.

Question. How far from the judge?

Answer. It was within distinct hearing distance.

Question. Where you could distinctly hear what was going on?

Answer. Yes, sir.

Question. And your impression is, that you never heard anything about Judge Watrous' interest?

Answer. No, sir; I did not.

Question. You never did hear anything?

Answer. No, sir; I never did. That I know positively, because my pleadings would have been very different if I had known it at the time. That makes me know certainly that I did not hear anything of the sort.

Question. You have heretofore stated in that plea of yours that you swore, according to the best of your knowledge and belief, that League was a citizen at the time these suits were commenced. Is that true?

Answer. I think so. I always thought he was a citizen of Texas.

Question. Do you know it to be so, sir?

Answer. I have always seen him there when I went there ; and people who went down there to see about their lands always said he was there, and told me what he had said. Many of the settlers talked about it.

Question. You do not state, then, from your own knowledge that he was a citizen of Texas ?

Answer. Yes, sir ; he told me so.

Question. Mr. League told you he was a citizen at that time ?

Answer. No ; not at any particular time. I know when first I went there—that was in 1840—he kept store there, and I supposed he was a citizen, of course. He owns property there, and lives there. I have seen his family there. I have never had any reason to suppose but what he lived there.

Mr. HUGHES, (reading.) “And defendant avers that said Watrous and League, citizens of the State of Texas, and said Frow, a citizen of Alabama, are equally interested, and were the parties in interest in said fraudulent grant, and were the parties in interest at the time of the pretended transfer of said grant to said Lapsley ; and said parties were domiciliated as aforesaid at the time of the institution of this cause or suit in the said federal court of Texas.”

Now, was he domiciled in Texas, was he residing there with his family, that being his home, at the time of the commencement of this suit ?

Answer. When I went down there to attend to the suit, I saw him there and his wife and family.

Question. Do you know that he was a citizen of Texas then ?

Answer. I know from no other circumstance, only that he said that he lived there, that his family were there, and that he owned a part of the land.

Question. Did he say so at that time ?

Answer. He said he was living there.

Question. He said he was living there at that time ?

Answer. I understood him so ; I so heard.

Question. He then told you that he was a citizen at the time, that he resided there at the time ; that you went there to attend to your suit in the spring of 1851 ?

Answer. Yes, sir ; it is so long ago that I cannot remember just what Mr. League told me, and all the circumstances ; but I know Mr. League said that he had settled there in 1840, and owned a good deal of property there, and owned property in Houston. I presumed, seeing his family there, that he lived there, and I think he had lived there for several years. I think he told me so. That is the best of my recollection.

Question. When you talk about Mr. League having said he could get his land whether the title was signed or not, what title do you refer to ?

Answer. We were talking about the La Vega grant.

Question. What old settlers do you speak of when you say that they informed you that the title was conditional and the land was vacant ?

Answer. James Marlin, for one.

Question. Who else, sir?

Answer. William Bowen was another. He said that he could buy as many of the titles as he pleased for five dollars apiece. He said he could buy his saddle-bags full of them.

Question. Where did Bowen live?

Answer. At Blue Bluff; he kept the post office.

Question. Where is that?

Answer. Ten miles below where I live. It is where we hold our elections.

Question. He said he could buy his saddle-bags full of them?

Answer. He said he could go to the alcalde and buy his saddle-bags full of them for five dollars apiece.

Question. Were there any alcaldes in existence in Texas at that time?

Answer. No, sir; I don't know that there were any by that name; but there were justices of the peace, which we understand as the same thing; I was one myself.

Question. Was the alcalde who issued this title of Lassassier living at that time?

Answer. That I don't know; I never saw him.

Question. You say you understand a justice of the peace to be the same thing as an alcalde. Did you suppose a justice of the peace would sell such titles to you for five dollars apiece?

Answer. I supposed that that was the Mexican law; I don't know it to be so.

Question. Where does Mr. Bowen reside now?

Answer. The old man is dead. He was a very old Texan. His son is alive.

Question. Were you in New Orleans at the November term, in 1855?

Answer. Yes, sir.

Question. Is that the time you speak of as the time when the papers were delivered by me to Mr. Wolfe in his office?

Answer. I think so, sir. You called upon him immediately after you returned from Washington. I asked Mr. Singleton about them, and he said they had been left there. That was the time of the trial, but they had been taken away before that.

Question. There was no trial then?

Answer. You had left; the time when you went to Washington, and when you returned you called and took them away. That was the term before the suit was tried.

Question. Did I show from the beginning to the end of that transaction any disposition to conceal the knowledge of those papers, or to prevent their inspection by your counsel?

Answer. Well, I always considered them concealed, because they were not left in court?

Question. Did I show any disposition to conceal them?

Answer. Well, I think you did?

Question. When?

Answer. Why, by withdrawing the papers from the court every time you went from the court. You never left them on record, as you should have done, so that my attorney could examine them in the meantime, but always carried them in your pocket.

Question. Did I not leave them for six weeks?

Answer. I do not know anything about that.

Question. Did not you say that?

Answer. Mr. Singleton said they had been left there, but Mr. Wolfe went away, and did not return.

Question. Within your knowledge did Mr. Wolfe, Mr. Singleton, or Mr. Herring ever apply to me for an inspection of this power of attorney; and if they did, did I refuse to show it to them?

Answer. Well, I heard them say they could not get a sight of it except at the time of the trial, and even then you would not leave it in court, but withdrew it right after the trial. They wanted you should leave it, and denied that you had a right to remove it from the record. You then made a motion in the court, and the court said it was your private paper, and gave you leave to take it away.

Question. Did not I leave with them before?

Answer. Well, I think they got it while the trial was going on, or while the court was in session.

Question. Answer my question now distinctly. Did you ever see Mr. Singleton, or any one of your counsel in that case, apply to me for an inspection of that document; and if you did, did I refuse to let them see it?

Answer. No, sir; I do not know that I have ever seen either of them apply for it at all. I do not recollect it now.

Question. You say in your testimony that the lines and corners of the La Vega grant had not been run or determined?

Answer. Only by your son, who marked them on horseback, the first time they ever were marked.

Question. You say it was done by my son on horseback?

Answer. So the surveyor, Mr. Erath, told me.

Question. Did not Mr. Erath say to you that he run the line himself?

Answer. He said he run where the line ought to be.

Question. Do you know such a river as the Bosqué, emptying into the Brazos?

Answer. Yes, sir.

Question. Do you know that that point is one of the corners?

Answer. I know they said there was a corner there, but it never could be found. I have had a surveyor to look for it and to look for it before the trial commenced in New Orleans, and he swore positively that there was no corner there.

Question. Is there not such a place as the mouth of the Bosqué?

Answer. Yes, sir.

Question. Is not that a well known place?

Answer. The mouth of the Bosqué is at its junction with the Brazos.

Here the examination of the witness by Mr. Hughes closed.

Question (by Mr. Craige.) In your examination heretofore you have mentioned that you believed that Judge Watrous was guilty of collusion, because you had seen letters that Lapsley wrote to certain persons, in which he said that Judge Watrous had an interest. I want you to state now to whom those letters were written, and when?

Answer. I did not say that.

Question. What did you say?

Answer. I said that Mr. Lapsley had referred to other parties owning land, and had said he would not compromise until he had consulted other parties.

Question. Now state to whom were those letters written, and when?

Answer. I cannot say when. I cannot give the exact date. Mr. Bidwell was one of the parties. That is the only letter I have seen. I have heard others say the same thing.

Question. You have seen, then, but one letter?

Answer. Only one.

Question. Why, then, did you state in your examination before that you had seen letters from Lapsley to other persons?

Answer. I said so because others had told me that they had received letters of the same character. I never saw but one letter that I now recollect. I spoke from hearsay.

Question, (by Judge Watrous.) Mr. Spencer, are you not a lawyer? Have you not a license to practice law?

Answer. No, sir.

Question. Neither in Texas nor in Pennsylvania?

Answer. No, sir.

Question, (by the chairman.) In the former part of your examination, did you mean to say that your inference was drawn from the fact of Judge Watrous' disclosing his interest, or from the late period at which you learned that he had disclosed it?

Answer. The late period at which I learned of his disclosure was the cause of my belief.

Question, (by Mr. Craige.) How much did you pay for your lands?

Answer. I located vacant lands.

Question. How much did the certificate cost you?

Answer. There were two 640-acre certificates, and they cost me about two hundred dollars apiece. There were two 320-acre certificates, which cost me, if I am not mistaken, about one hundred and twenty-five dollars apiece. And then I paid something on tax sales and for papers and deeds, say about one hundred dollars.

Witness signs the foregoing testimony, subject to the following explanation :

As to the purchase of titles, I meant to say that Mr. Bowen told me he could have purchased his saddle-bags full of them in 1835 at five dollars apiece, about the time of the change of government; that the alcalde then made a business of it.

Question, (by Mr. Hughes.) When you spoke of Mr. League having said that he did not care whether the title was signed or not, to what

title did he allude ; was it to the concession made by the governor of Coahuila and Texas, or to the title of possession ?

Answer. I cannot recollect what kind of title it was. We were speaking of the title of the land on which I lived, and it was spoken of as the title.

ELIPHAS SPENCER.

EXAMINATION OF THOMAS J. FROW.

MONDAY, MARCH 15, 1858.

THOMAS J. FROW, (examined by Mr. Taylor.)

Question. Where do you reside ?

Answer. In Selma, Alabama.

Question. How long have you resided there ?

Answer. Twenty-eight or thirty years.

Question. Have you any interest in the La Vega eleven-league grant in litigation between John W. Lapsley and Eliphas Spencer, and which has been in litigation in Texas and before the court at New Orleans ?

Answer. Yes, sir ; I have an interest in it.

Question. Have you any written title showing the nature and extent of your interest ?

Answer. Yes, sir ; I have got an agreement between the parties.

Question. Can you produce that agreement ?

Answer. Yes, sir.

(See appendix for the agreement.)

Question, (by Mr. Craige.) Has that paper ever been registered ?

Answer. I do not know ; I think not. That copy has not been. There is a duplicate which may have been registered.

Question, (by Mr. Taylor.) State in what manner you were induced to enter into this purchase.

Answer. My recollection is that it was first proposed to me by Mr. Plattenburg to go into it. He was one of the parties. He stated to me that this speculation was offered to him through, probably, one of the parties in Texas, and he was, moreover, requested to confer with me and with others in relation to it. I gave the subject some reflection, although at the time Mr. Plattenburg and myself had no ready money. Mr. Plattenburg made further inquiries of parties who had money, and among others, of Mr. Lapsley, and probably Mr. Goldsby and Mr. Price. They all thought favorably of it, as there was probably only five or six thousand dollars required.

Question. Before any bargain was made did you, or did you not, visit the land ?

Answer. I did. Before anything was done, two of the parties in

interest in Alabama, and one of the parties in Galveston, visited the land.

Question. Mention who they were.

Answer. Mr. League of Galveston, and Mr. Price and myself of Alabama, looked at the land.

Question. You were the only persons who went?

Answer. The only persons that visited the land. Mr. John R. Keenan, who was not interested, accompanied us.

Question. Did you go on the land?

Answer. Yes, sir.

Question. And you examined it considerably?

Answer. Not very critically. We went over it somewhat, but did not give it a critical examination.

Question. What time of the year was that?

Answer. It was in the spring preceding the date of that instrument.

Question. Did you see any settlements on the land at that time?

Answer. Yes, sir.

Question. How many?

Answer. On the land that was pointed out, and supposed to be the land, I may have probably seen four or six settlements—that is, dwelling-houses in which there were residents.

Question. Do you recollect the names of the settlers?

Answer. One of them was Duncan, at whose house we staid some day, or couple of days.

Question. Do you recollect any others?

Answer. Yes; Mr. League pointed out Mr. Spencer's house, and said that Mr. Spencer lived there. We did not stop at his house.

Question. Give the names of all that you can recollect.

Answer. With the exception of one more, I do not know the names of any. That is a man named Donohue.

Question. Was he a resident on it at the time?

Answer. I am not sure as to that. I have got no recollection of any names, except those I have just mentioned.

Question. Before you made the purchase, did you have the title papers examined, and get an opinion as to the title?

Answer. I really do not know about having an opinion, but I presume Mr. Lapsley got one.

Question. No bargain was finally made till after you had visited the land?

Answer. No, sir.

Question. Was the sale from League to Lapsley made before or after you had made your arrangements, and determined on taking an interest in the land? What time did you come to the conclusion to take an interest in the land?

Answer. We came to the conclusion after we made the visit to the land.

Question. When was the sale executed from Mr. League to Mr. Lapsley?

Answer. At the same time as the execution of this agreement. I think that probably the agreement recites that fact.

Question. What was the reason for having the sale made to Lapsley instead of to all the parties in interest at the time?

Answer. I cannot state further than that it was for convenience. I cannot state any other reason.

Question. Was the price paid at that time to the seller, Mrs. St. John?

Answer. There was a payment made at that time, but what amount I cannot state. There were payments made subsequently.

Question. Who furnished the money to pay the price to Mrs. St. John or her agent?

Answer. I only recollect that I did not furnish any of the money at that time. I think it was furnished by Mr. Lapsley and Mr. Goldsby, and other parties who were interested. I remember that Mr. Goldsby gave a draft for \$3,500, which would have been a good deal more than his share. The residue, I think, Mr. Lapsley furnished. I subsequently made a settlement for my interest with Mr. Lapsley.

Question. It is mentioned in this paper that the parties of the second part, which included Mr. League and Judge Watrous, gave their note for \$4,532; when did they pay it?

Answer. They haven't paid it yet.

Question. Have they paid any portion of the price?

Answer. I cannot say that they have paid any portion of the price. Mr. Lapsley, however, has sold, through his agent, Mr. League, a portion of the land. There was a cash payment made on that sale which was subsequently paid back to Mr. League to cover expenses, so that really, so far as I know, there is nothing yet paid on their indebtedness.

Question. It appears that there had been a variety of expenses incurred in this litigation; have the goodness to state who furnished the money for carrying on that litigation?

Answer. I furnished some of it myself. It was furnished through Mr. Lapsley.

Question. Who furnished the money to cover the expenses for obtaining witnesses from Mexico?

Answer. The parties in interest in Alabama furnished the money.

Question. Who furnished the money for the payment of the fees of counsel?

Answer. The parties in Alabama furnished it.

Question. Has any money been furnished by Mr. League or Judge Watrous for defraying these expenses?

Answer. Not that I am aware of.

Question, (by the chairman.) Look at this agreement and say what that (pointing to an erasure in the instrument) was intended to be? It seems to have been erased.

Answer. I cannot state what the amount of that note was; but whatever the amount was, it did not cover the expenses.

THOMAS J. FROW.

TUESDAY, MARCH 16, 1858.

Examination of Thomas J. Frow continued.

Question, (by Mr. Evans.) Do you know Marcus D. Herring?

Answer. Yes, sir.

Question. He was counsel for Spencer in the Lapsley and Spencer suit?

Answer. Yes.

Question. Had Lapsley, or any of the parties interested with him, any agreement or understanding with Herring to sell Herring a portion of the land included in the La Vega grant?

Answer. There was no agreement whatever to sell Mr. Herring any of the land. There was an agreement between Mr. Herring, Mr. League and myself of this character. He represented a man named Thompson as well as Spencer in these suits, and was very desirous of obtaining Mr. Thompson's land for him. He expressed such a desire to Mr. League and myself, and asked what propositions would be acceptable. We had no authority to make propositions; but we agreed, provided Mr. Lapsley would acquiesce, and that Mr. Thompson would also acquiesce, that we would sell Mr. Thompson his land for \$15,000, giving him a quit claim title to it. I accordingly went home and conferred with Mr. Lapsley, and obtained his consent to sell Mr. Thompson his possessions, giving him a quit claim title for \$15,000. According to promise, Mr. Lapsley and myself both notified Mr. Herring that that agreement was not acquiesced in by Mr. Lapsley. Mr. Herring responded to our letters, stating that Mr. Thompson would not acquiesce in the proposition. The agreement, so far as we were concerned, dropped there. That, I suppose, is the circumstance to which you have reference.

Question, (by the chairman.) When and where was that?

Answer. That was after the trial at New Orleans.

Question. What trial do you mean?

Answer. The trial when Mr. Lapsley got judgment.

Question. In what case?

Answer. In the case of Lapsley against Spencer and other parties. As I understand, judgment went against Spencer, as well as other defendants, including Thompson.

Question, (by Mr. Chapman.) This was a proposition to compromise?

Answer. It was a compromise, for which Mr. Herring had no authority from Mr. Thompson, and I had no authority from Mr. Lapsley till it was afterwards confirmed on the part of Mr. Lapsley.

Question, (by Mr. Evans.) Did you not, soon after your return from the trial to Alabama, inform Herring by letter or otherwise that said John W. Lapsley would not, or would not exactly, or words to that effect, sanction the agreement made with the said Herring?

Answer. I did not.

Question. Did Lapsley, yourself, or any of the parties, have any

conversation with Herring in reference to his obtaining a new trial, or his appealing from the judgment of the circuit court to the Supreme Court of the United States?

Answer. There was some conversation between Mr. Herring and myself. Its import I cannot now distinctly state or remember, but there was some conversation in reference to an appeal from that court to the Supreme Court of the United States.

Question. Was that one of the conditions or considerations of this compromise that you speak of with Thompson?

Answer. No, sir; I do not think it was.

Question. State all about that conversation?

Answer. If some of the circumstances were brought to my recollection I could state more decidedly, but I have got no recollection that will enable me to state all about the conversation. It was not confined to one conversation, but repeatedly there were allusions made to the subject while I was with Mr. Herring.

Question. If Thompson had complied with the compromise proposed would an appeal have been taken?

Answer. I am really not aware whether it would or not. I have got a recollection that some intimation was given of some kind that if this compromise was carried out that probably there would be no appeal taken, but when or from whom that intimation came I cannot state. I may have got it from Mr. Herring, and my impression is that I did.

Question. Was Herring to get any land, by purchase or otherwise if that compromise had been carried out?

Answer. Not a foot, that I know of.

Question. Are you acquainted with Edwin Shearer?

Answer. Yes, sir.

Question. Is he a citizen of Alabama?

Answer. I believe he is.

Question. How long has he been a citizen of Alabama?

Answer. He is a native of Alabama, and, with the exception of a residence of a year or two in Texas, he has always resided in Alabama?

Question. Where did he reside in Texas?

Answer. In Galveston.

Question. Is he related to Judge Watrous?

Answer. Not that I know of.

Question. Is he related to Lapsley?

Answer. No, sir.

Question. To yourself?

Answer. No, sir.

Question. To Price?

Answer. He is a brother-in-law of Price's.

Question, (by the chairman.) Did you say that if that compromise had been carried out there would have been no appeal in the Spencer case?

Answer. I did not say so. I was given to understand, from some

source or other, and I think it was from Mr. Herring, that no appeal would be taken if that compromise were carried out.

Question, (by Mr. Chapman.) Do you mean in the Spencer case?

Answer. No ; in the Thompson case.

Question. Then I understand you as saying that the compromise did not apply to the Spencer case at all?

Answer. It had no application to it that I know of. There were as many as ten or eleven defendants in the suit in New Orleans, and this Thompson was one of them.

Question. What amount of land was claimed in the Thompson suit?

Answer. It was called a league of land.

Question, (by Mr. Evans.) This understanding that you had from Herring, was it not that there was to be no appeal taken in the cases decided at New Orleans?

Answer. No, sir ; my understanding was that he could not control the other cases, but it was the impression that that would be the result.

Question. It was the impression that there would be no appeal in the Spencer case?

Answer. The impression given to me by Mr. Herring, or whoever it was, was that there would be no appeal in that event.

Question, (by Mr. Chapman.) Do you mean no appeal in the Thompson case, or no appeal in any of the cases?

Answer. In any of them.

Question, (by the chairman.) You say you have settled up your portion of the purchase money?

Answer. Yes, sir.

Question. When did you make your payment?

Answer. I cannot state. I do not recollect. I state, however, that I did settle all my portion with Mr. Lapsley, who was the person to whom the money was to be paid. I am not delinquent a dollar that I know of.

Question. Do you recollect how much you have contributed as your portion of the expenses—lawyers' fees, &c.?

Answer. I do not know that I can state it without seeing the account current. My present impression is that first and last we have contributed nearly \$20,000 in money.

Question. Do you mean \$20,000 inclusive of the purchase money?

Answer. Yes ; inclusive of the purchase money.

Question, (by Mr. Taylor.) What was the purchase money?

Answer. I cannot state that. This paper that I have produced is the only paper in my possession. The other papers, I think, would give more satisfaction on that subject. It is by mere accident that I happen to have this agreement.

Question, (by Mr. Billingham.) Have you any other paper or written recognition of your title or interest in the land in question, than the one you have presented to the committee?

Answer. I don't think I have ; which was a great omission on my part. I don't think I have got a showing further than that disclosed here.

Question, (by the chairman.) Have you no showing for the money you paid?

Answer. I really don't think I have got any showing for the money paid. Mr. Lapsley is a man of very high character for honesty and integrity, and so he is esteemed; that, probably, may have been the reason why I took no showing. I don't believe I have got any showing for my investment further than that paper.

Question, (by Mr. Taylor.) I understood you to state that you thought there had been expended in this business about \$20,000, including the purchase money?

Answer. Yes, sir.

Question. What portion of that were you to furnish?

Answer. I was to furnish a fifth part of it.

Question, (by Mr. Billingham.) Where was this written agreement that you have presented executed?

Answer. It was executed in my room, in Selma, Alabama?

Question. By all the parties to it?

Answer. Yes, sir; by all the parties.

Question, (by Mr. Chapman.) You say that the proposition in reference to this compromise was that Thompson should pay \$15,000?

Answer. Yes, sir.

Question. You have also stated that you derived an impression, in some way, that if that compromise was carried into effect, there was to be no appeal in the case of Spencer?

Answer. That was not a condition; but it was supposed that that would be the result.

Question. Well, what arrangement was to be made, or was there any arrangement to be made, in reference to the suit against Spencer?

Answer. There was no arrangement made, or expected to be made, that I know of, in reference to that particular suit of Spencer's.

Question. How, then, was Spencer's interest to be compromised by the arrangement made with Thompson?

Answer. It was not to be affected in any way that I know of. This was an isolated compromise.

Question. The decision was against Spencer?

Answer. Yes.

Question. And your impression was that there was no appeal to be taken in Spencer's case?

Answer. I did not say in Spencer's case, particularly; there were other parties.

Question. I speak of Spencer's case?

Answer. This arrangement, or proposed arrangement, or compromise, was with Thompson, alone. There was no reference whatever to Spencer or any other of the parties; but it was supposed that if the compromise with Thompson was carried out, the other parties would not take an appeal. That idea appeared to be prominent in these conversations or allusions to the subject when it was under discussion.

Question. Why?

Answer. I cannot tell why.

Question. Was Herring to take the whole responsibility of withholding appeal in each case?

Answer. No, sir; he only represented Thompson in that compromise, as I suppose.

Question. He was counsel for Spencer, however?

Answer. He was counsel for Spencer, and for eight or ten other defendants, I believe; but the arrangement was only entered into with reference to Thompson's isolated case.

Question, (by Mr. Craige.) Is Thompson a man of wealth?

Answer. It is so represented. I do not know him.

Question. Did that fact have anything to do with the supposition which you all had, that if you compromised with him the others would not carry on their suits?

Answer. I think it had. That was one idea.

Question. You thought that if he did not back up the others they would not be likely to carry on the suits?

Answer. Yes; I think that that idea prevailed.

Question. What was the reputation for means of the other defendants?

Answer. Not so good.

Question. Were they men of any means, or little means, as far as you understood?

Answer. They were men of little means, I think. It was the understanding that they did not desire to prosecute an appeal, with the exception of Spencer and Thompson. These are my impressions from the representations made.

Question, (by Mr. Tappan.) What did you understand as the reason why the title or conveyance of all this land was taken in the name of Lapsley, rather than in the name of all the parties to the contract?

Answer. As I stated yesterday, I know of no other reason except for convenience. That may have been the reason. There was none assigned to me, however. It was proposed and entered in that shape, and I have got no impression about it, except that it was for convenience sake.

Question. You resided in Alabama at the time?

Answer. Yes. Mr. Lapsley is a lawyer, and none of the others are lawyers, except Mr. Price, who was a lawyer. That may have been another reason.

Question, (by Mr. Chapman.) Do you know that Judge Watrous had any knowledge of that proposition of compromise?

Answer. He had no knowledge whatever of it that I am aware of. He did not derive any from me.

Question, (by the chairman.) Was there any power of attorney, or other written instrument, signed by the parties in interest authorizing Mr. Lapsley to act in the premises, other than the paper which you have produced?

Answer. I have no recollection of any other.

THOMAS J. FROW.

THURSDAY, MARCH 18, 1858.

Examination of Thomas J. Frow, continued.

Question, (by Mr. Evans.) Were you not present in court at New Orleans pending the trial of the Spencer case?

Answer. Yes, sir; I was there frequently pending the suit.

Question. Were you not present when Thomas M. League was offered as a witness in that case?

Answer. I do not recollect.

Question. Do you know whether he was or not?

Answer. I cannot state; I have no recollection whatever of it.

Question. What profession has Mr. Shearer?

Answer. He does not pursue any profession. I believe he has read law, but I do not think he has ever practiced.

Question. With whom did he read law?

Answer. He read law with Judge Peck, at Tuscaloosa, Ala. At least that is my understanding.

Question. In what year did he live in Texas?

Answer. I think it was about the period that this investment was made. I am satisfied that it was about that period.

Question. What business did he follow in Texas?

Answer. I understood he was assistant in the clerk's office of the federal court.

Question, (by the chairman.) The federal court in Galveston?

Answer. Yes, sir.

Question, (by Mr. Evans.) He is the same person that witnessed the agreement which you have produced?

Answer. Yes, sir.

Question. Is he not the same person who was foreman of the jury in the Ufford and Dykes case?

Answer. I do not know. I know nothing about that case.

Question, (by Mr. Billingham.) From the fact that he witnessed the contract which you have presented at Selma, are you enabled to state whether he moved to Texas before or after that time?

Answer. If he did remove at all, and had a residence in Texas, it was before that time; and he resided there, also, subsequently to that time. His relatives reside in Alabama, and he was there, I apprehend, on a visit.

Question, (by the chairman.) Where does he live now?

Answer. He lives in Mobile, I think.

Question, (by Mr. Chapman.) Do you know whether he lived in New Orleans at any time?

Answer. I think not.

Question, (by Mr. Evans.) Did not Shearer write the agreement?

Answer. No, sir; his brother wrote it, mainly under the direction of Mr. Lapsley. I observe from the handwriting that it is composed partly of his brother's handwriting, and partly of Mr. Lapsley's own. I am familiar with his brother's handwriting.

Question, (by Mr. Chapman.) How long were you engaged in arranging the contract in Alabama when Judge Watrous and Mr. League came on from Texas?

Answer. I don't think we were more than two days at the outside; probably but one day. I think it was completed, possibly at the furthest, in two days.

Question. Do you recollect what title papers were produced on that occasion?

Answer. I do not recollect. It was understood that they had these title papers; and Mr. Lapsley was a lawyer.

Question. There was an investigation of the title papers at that time, was there not?

Answer. Yes, sir.

Question. Was this power of attorney that has been spoken of produced on that occasion?

Answer. I think not.

Question. Nor a copy of it?

Answer. I think not.

Question. Did you hear it spoken of at that time?

Answer. I cannot state that I did. The truth is that I was not advised, or had no notion, of the importance of such a paper.

Question. Did you know of the existence of such a paper at that time?

Answer. No, sir; I did not. It might have been referred to, and possibly was, but I have no recollection of it.

Question. When did you first hear of that paper?

Answer. To my recollection I heard of that paper first while the trial was going on in New Orleans. I heard the counsel, Judge Hughes, allude to it frequently, on that occasion, as a very important paper; and it may have been alluded to pending the agreement at Selma; but I have no distinct recollection of it.

Question, (by Mr. Hughes.) Have you any recollection of ever having seen or heard of that power of attorney till you heard of it in New Orleans?

Answer. It is my impression that I never did.

Question. Did you think it necessary to make any inquiry about it while you were making this arrangement?

Answer. I did not. I did not know its importance.

Question. Did you, or did you not, rely on Mr. Lapsley and on the information he had obtained as to the state of the title?

Answer. Yes, sir.

Witness explains that if there were any title papers present when the agreement was drawn, they were the deeds from Williams to League and from League to Lapsley. If even they were present, he has no recollection of reading them.

THOMAS J. FROW.

EXAMINATION OF JOHN W. LAPSLEY.

TUESDAY, APRIL 6, 1858.

Question, (by the chairman.) State your knowledge of this transaction.

Answer. In the fall of 1849, or sometime during the forepart of the year 1850, Major Frow, my townsman, with whom I had had a number of business transactions and with whom I had been acquainted a good many years, mentioned to me that he had been in Texas and had been informed that there was a valuable tract of land offered for sale there, which it was thought would be a profitable speculation at the price at which it was offered. He wished to know if I would join in purchasing it. In that conversation, or in a subsequent one relating to the same matter, I learned from him that Mr. League, and also, perhaps, Judge Watrous, would like to purchase an interest in the land, but that they did not have any money; and that they proposed that if he would raise the money, or get some friends to join him in it, the land being offered to Mr. League, he (League) would buy it and expect Major Frow and his associates to advance the money for it in consideration of the fact that Mr. League was willing to let him and his friends into the purchase, which he considered a valuable one. I told Major Frow that I was willing to be one of a company to purchase the lands on certain conditions; that was, that I must be satisfied that the title was good, and must also be satisfied about the quality of the land. I was not willing to buy lands in Texas unless there was some more than ordinary inducement to do so.

After consulting together, we proposed that we would consult some other gentlemen: Colonel Goldsby, of Dallas county, a wealthy planter; Major Price, of Perry county, a planter, and Mr. Plattenburg, of Dallas county, a planter. We proposed to bring them in and consult with them, and see if they would join us in the purchase. I understood that the land could be purchased for something like \$10,000. I did not care to risk much on it, but I was willing to risk something. These gentlemen were consulted, and we agreed among ourselves that Major Frow and Major Price should go on to Texas, with a friend of mine, in whose judgment I had great confidence, and whom I had previously sent to Florida and Louisiana to select lands for me. They were to examine the land, and also to consult an attorney about the title. They were gone some four or five weeks, and when they returned they made a favorable report, both as to the title and as to the quality of the lands. The lands were situated on the Brazos river, and they said that a portion of them were fine lands and they thought they were cheap at the price. They also stated that they had consulted with Judge Hughes, who had been recommended to them as probably one of the best land lawyers in Texas, and that the investigation which he had made of the title led him to the conclusion that it was good, and that he so advised them.

The matter there ended for the time being. Some time in the month of July, either the 4th, 5th, or 6th, I was about leaving my residence in Selma for the Shelby springs, where I was in the habit of spending the summer with my family. My family carriage had come down town as far as my office; I went into the office to transact some little business, and there I found Judge Watrous. I had been acquainted with him a good many years, and he sometimes called upon me when passing through Selma. A short time afterwards, I met Mr. League. It also so happened that the other gentlemen, Colonel Goldsby and Major Price were in town on that day. We met together and the subject of the land was introduced. I being an attorney at law, and having acted as counsel for some of the gentlemen who were about to embark in this matter, they referred it to me to look into the title papers, and see what advice I would give. I examined the papers, and came to the conclusion that there was some irregularity in the title, which I thought ought to be corrected. I don't think the original grant was then produced, although I think I saw it afterwards; but the papers under which League claimed title were there, a deed from Menard and Williams, the trustees of Mrs. St. John to League, and the deed from Mrs. St. John by Cordova, her agent in Texas. Still I was not satisfied myself, and stated that I thought the deeds ought to be amended. I then found that Mr. League had great confidence in his title. He was making very strong representations to us with a view, I suppose, of inducing us to make the purchase. He had made the purchase, as I understood, and had got some time given to make his payment. He was an entire stranger to me. I had never seen him before, although I have heard of him. I drew up a deed, a copy of which I have sent to the committee.

The following was produced and identified as a true copy :

STATE OF ALABAMA, }
 Dallas County. }

This indenture, this day made and concluded by and between Thomas M. League, of the city of Galveston, in the State of Texas, of the first part, and John W. Lapsley, of the State and county first aforesaid, of the second part, witnesseth: The party of the first part, for and in consideration of the sum of seven thousand dollars, (\$7,000,) to him well and truly paid by the party of the second part before the sealing and delivery of this indenture, has granted, bargained, sold, conveyed, and aliened, and does by this indenture grant, bargain, sell, convey, and alien forever to the said party of the second part, his heirs and assigns, all the right, title, interest, claim, and demand which the party of the first part has possessed or is in any manner entitled to, into or out of the hereinafter specified and designated tracts or parcels of land; that is to say: Eleven leagues of land situate in the county of Limestone, in the said State of Texas, commonly called or known as the "La Vega grant," situate on the east bank of the Brazos river, above the mouth of Tahaucano creek, embracing the point heretofore known as Tahaucano village, which said eleven leagues of land were granted to Thomas de la

Vega by the alcalde of the district of San Felipe de Austin, in the year eighteen hundred and thirty-three, (1833.) For a more particular description of said eleven leagues of land let reference be had to the original evidences of said grant, on file in the land office at Austin, in said State of Texas. In consideration as aforesaid, the said party of the first part for himself, his heirs, and legal representatives, covenants with the party of the second part, his heirs, legal representatives, and assigns, in manner following, to-wit: That the said above referred to and designated eleven leagues of land were, in the year eighteen hundred and thirty-three, in due form of law under and by virtue of due and sufficient authority to make such grant, granted to the said Thomas de la Vega by the alcalde of the said district of San Felipe de Austin, and that proper and sufficient evidence of said grant exists and are on file in the land office of the State of Texas, in the city of Austin. The party of the first part, in manner and form aforesaid, further covenants with the party of the second part, his heirs, legal representatives, and assigns, that he, the said party of the first part, is duly possessed of, and rightfully entitled to, all the right, title, and interest which the said Thomas de la Vega ever had or possessed to the said eleven leagues of land, hereinbefore referred to, and binds himself, his heirs, and legal representatives, to warrant, and forever to defend the title by this indenture, granted to the said party of the second part, his heirs, legal representatives, and assigns, against the said Thomas de la Vega and the party of the first part, their respective heirs and assigns, and all others claiming or to claim by, under or through the said Thomas de la Vega, and the party of the first part, or either of them; and covenants that the said eleven leagues of land herein above referred to are free from all encumbrance done or suffered by the party of the first part, or by or under his authority.

In testimony whereof, the said party of the first part hath hereunto set his name and affixed his seal this, the ninth day of July, in the year of our Lord eighteen hundred and fifty.

Signed, sealed and delivered by Thomas M. League to John W. Lapsley in the presence of the undersigned, this 9th day of July, 1850.

THOMAS M. LEAGUE, [L. s.]

WILLIAM SHEARER,
EDWIN SHEARER.

Witness resumed: Mr. League objected to that deed, and stated that he did not think it was right that I should require him to give so strong a deed as that; but it was nothing more than what he represented, and I thought, to test the gentleman's sincerity and faith in his own title, I would make him sign it, or else I would not go into the bargain. Well, he signed the deed. It will be observed that this deed covenants that the land in question was granted to Tomas de la Vega by the Mexican government through its competent officers, and according to the form of law, and that he, League, possessed all the title conveyed to La Vega.

This I considered equivalent, almost, to a warranty title. After some hesitation and demurring, Mr. League signed that paper, and on his agreeing to do so the trade was concluded.

After the execution of that paper, and as a part of the same transaction, it was agreed that I should take the legal title, and should hold it in trust for the parties named in the written instrument executed at the same time.

There was no agreement that I know of, expressed or implied, in relation to the land except what was contained in that written instrument. It was thought proper by the gentlemen in Alabama to select me as the party to hold the title, and I will state to the committee that that was one of the conditions on which I was willing to go into the matter; that is, that the title should rest either in me or in some one of my friends in Alabama in whom I had confidence.

I did not suggest myself, but the other gentlemen suggested me. I would, perhaps, have consented to any other of the Alabama friends getting the title, but I should have insisted on its going to one of us. We agreed to advance the money, and to take the note of Judge Watrous and Mr. League for their proportion of the purchase money, they agreeing to pay at the same rate as the other parties did. That note I now hold. It is for some \$4,500, and was payable five years after date, with eight per cent. interest from date—July, 1850. The reason assigned, upon which we advanced the money, was that Mr. League did not have the money to make the purchase; that money was scarce, and very hard to get in Texas. He represented that he had lands, but had not the money, and therefore he called on us to advance the whole money, which we willingly agreed to do. I believe I made the first payment myself, with the understanding that my associates in Alabama would refund to me. I think Mr. League stated at the time that he needed \$2,000 to make the first payment, and the balance was to have been paid at some subsequent time. I agreed to advance Mr. League the \$2,000, on the condition that Judge Watrous, the only person he had there to stand his surety, would sign an obligation with him that he would get the deeds executed which I required—that is, a deed direct from Mrs. St. John herself, and another deed, such as I prescribed, from Manard and Williams, her trustees, because I wished to put the matter beyond all cavil. I prepared these deeds myself and sent them on, I think, by Mr. League, who was going to Baltimore, and he had them executed and sent them back to me. I agreed that when that was done Mrs. St. John might draw on me for the balance of the purchase money coming to her. I think I stated that I would not require any additional time to pay the money, but would pay it on presentation of her draft after getting these deeds.

I have never received anything from Judge Watrous or Mr. League, but the other gentlemen paid their proportion of the purchase money in a short time. I hold the obligation of Judge Watrous and Mr. League, and if the committee will refer to the contract they will find that I retain a lien upon the land until that money, with the interest on it, is paid.

Question, (by the chairman.) You spoke of a second paper which Judge Watrous and Mr. League signed ; is this a copy of it ?

Answer. That is a true copy of it.

The following is the paper identified by the witness :

STATE OF ALABAMA, }
Dallas County. }

Know all men by these presents, that we, Thomas M. League and John C. Watrous are held and firmly bound unto John W. Lapsley in the sum of four thousand dollars, for the payment of which, well and truly to be made, we bind ourselves, our heirs, and legal representatives, jointly and severally, firmly by these presents, sealed with our seals, and dated this 9th day of July, eighteen hundred and fifty.

The condition of the above obligation is this : the above bound Thomas M. League has this day bargained unto the said John W. Lapsley eleven leagues of land, situate in the county of Limestone, in the State of Texas, on the east bank of the Brazos river, known as the La Vega grant, for which he has executed his deed to said Lapsley, of this date. To perfect the title of the said League to said lands it is necessary that he should have a conveyance from M. B. Menard and Nathaniel F. Williams, as trustees of Mrs. Sophia J. St. John, so as to complete his title to said lands. The said Lapsley has this day paid two thousand and ten dollars, part of the purchase money of said lands. Now if the said Thomas M. League shall, within sixty days from the date of these presents, deliver, or cause to be delivered, his own deed for said lands, duly executed, acknowledged, and certified, so as to have it admitted to record in Texas, in pursuance of the laws of that State—a duplicate of which deed, but without such certificate, has been executed by the said League and delivered to said Lapsley, bearing date the date of these presents ; and shall also deliver, or cause to be delivered, to said Lapsley, within sixty days, the deed of the said M. B. Menard and Nathaniel F. Williams to the said lands, duly executed, acknowledged, and certified, according to the laws of Texas, so as to admit to record in that State, in pursuance of law, then, and in such case, this obligation to be void, else to remain in full force.

THOMAS M. LEAGUE, [SEAL.]
 JOHN C. WATROUS. [SEAL.]

Question, (by Mr. Billingham.) That is the obligation you required them to execute before you advanced the \$2,000 ?

Answer. Yes, sir. I will state to the committee, also, that I presume that Mr. League had purchased the land on the faith of Major Frow and Major Price, promising, while in Texas, on certain conditions, to advance the money, or procuring to have it advanced. I do not know whether they made any promise of that sort, but I have no doubt he purchased the land with that expectation. Still I did not feel bound by that, so far as to go into it, unless it was made satisfactory to me that the title was good and *bona fide*. I did not want to throw away money or to engage in anything of that sort at

such a distance from home. I had not a very high idea of land speculations in Texas at that time, and would not have gone into it unless I was satisfied that the thing was all straight and fair.

Question, (by Mr. Taylor.) What title papers were before you at Selma?

Answer. The only papers that were before me that I remember were a deed from Jacob Cordova, the agent and attorney in fact of Mrs. Sophia St. John, to Thomas M. League, and I am not certain but there was also the power of attorney from Mrs. St. John to Cordova, giving him authority to act for her. *I think* there was also a deed from Menard and Williams, the trustees of Mrs. St. John—the latter being her brother—to League; and there was also, I recollect, a conveyance from Samuel M. Williams, the agent and attorney in fact of Tomas de la Vega, to Mrs. St. John, or her trustees, Menard & Williams. I understood, at the time, that Williams was her brother. Menard, I believe, lived in Texas, and Williams in Baltimore. These were the only papers that I recollect.

Question. Was there any act of authorization or any power of attorney showing the authority of Samuel M. Williams to make a sale as the agent of De la Vega?

Answer. I think not at that time. I have no recollection that there was. I had understood that the papers in Texas had been examined by Judge Hughes as to the original title, and I did not look into that at all.

Question. You confined your attention to the transfer from these persons to yourself?

Answer. Yes; and also to the conveyances to League, and to Mrs. St. John and her trustees. I had understood that Judge Hughes had examined the title to League, and it was to the title from League, and those under whom he claimed, up to La Vega, that I was directing my attention. I have no recollection that the La Vega grant was there. My belief is that it was not there at that time.

Question. How long were your discussions continued at Selma before you finally agreed and executed these papers?

Answer. I think some two days after Mr. League and Judge Watrous came there. That is, the greater part of that time was engaged in examining the titles, consulting with my associates in Alabama, and drawing up the papers—perhaps as much as two or three days. The discussion did not last that long. It was first agreed upon that I should draw up such papers as I thought were proper. They were then submitted; and perhaps we were several hours talking over the matter before it was concluded. And from first to last there were two or three days occupied, as before stated.

Question. Has the agreement signed between the various parties been put on record?

Answer. I do not know whether it has been or not. It has not been recorded in Alabama, and I presume that it has not been recorded at all.

Question. When you purchased, you were aware, of course, that

it would be necessary to bring suits in order to eject the persons on the land?

Answer. Yes, sir; I understood that there were men who were called squatters on the land. Mr. League spoke of them as being on the land.

Question. Was it contemplated, at that time, that suits were to be brought?

Answer. Yes, sir; I calculated that suits would become necessary.

Question. Did you give any instructions in regard to the bringing of the suits?

Answer. Yes, sir; I gave instructions.

Question. To whom?

Answer. I think my instructions were given by letter to Judge Hughes. I have got here copies of some of my letters.

Question. Did you see Judge Hughes personally about them?

Answer. No, sir; the first time I met him was at New Orleans in the spring of 1855, I believe.

Question. You did not see him personally until after the suits were brought?

Answer. No, sir; not till I met him in New Orleans in 1855.

Question. Then your instructions to him were given in writing?

Answer. Yes, or through Mr. League; I think it very likely I may have given some instructions through League.

Question. Have you any recollection that you gave any instructions in writing before the institution of the suits to Judge Hughes.

Answer. Yes, sir; I have got here a copy of the first letter I ever wrote to Judge Hughes. In this letter he is addressed as Joseph instead of Robert Hughes; but it refers to the same person. I sent it by a young gentleman who was going to Galveston with the deeds.

The letter was read by the witness, as follows:

SELMA, ALABAMA, *November 2, 1850.*

DEAR SIR: I wrote you by mail a day or two since, to the contents of which letter I beg to refer you specially, without repeating its contents. By E. Shearer, esq., I send you all the deeds, scrip, field notes, &c., relating to the La Vega grants purchased of Mr. Thomas M. League. As Mr. League and Judge Watrous are interested in this land, I beg leave to refer you to them in relation to any matters relating to the suit to be brought, &c.

You will know best whether it would be proper to have recorded at once the deeds from Mrs. St. John and Messrs. Menard and Williams to Mr. League, and from the latter to me. You will please act as you think best. I, of course, desire the deeds recorded as soon as you may think it advisable to do so. In my suggestions in relation to getting to be used for evidence in the suit a quit claim deed direct from Mr. Samuel M. Williams, should be approved and carried out, I suppose it would be advisable not to have the deeds recorded just now; but otherwise I presume they had as well go to record at once. All the papers will, of course, be carefully preserved. Any expense which may be incurred in having deeds recorded, or other necessary

expense in relation to the land in the suit to be brought, will be provided for when I may be informed of it; and if you should find it necessary to expend anything, keep an account, and you shall be reimbursed.

Hoping to hear from you at your convenience, I am, very respectfully, yours,

J. W. LAPSLEY.

JOSEPH HUGHES, Esq.,
Counsellor, &c., Galveston.

In reference to the deed, I had suggested to Judge Hughes to get a deed of conveyance direct from Samuel M. Williams to League, so as to avoid the necessity of circumlocution in the proof. That idea, however, was never carried out. Judge Hughes considered it unnecessary, and thought that the proof could be easily enough made without it.

Here is the preceding letter. Witness read it, as follows:

SELMA, ALA., *October 31, 1850.*

DEAR SIR: A day or two since I delivered to Thomas M. League, esq., to be handed to you, the deed of Messrs. M. B. Menard and N. F. Williams, trustees of Mrs. Sophia J. St. John to Mr. League, for the tract of land known as the La Vega grant. There was some defect in the deed, or rather certificate of acknowledgment, which has been executed by Mr. Williams, and requires to be executed by Mr. Menard to render it complete. This land, as you are probably informed, was purchased by me of Mr. League for a company of gentlemen, including Judge Watrous, Mr. League and myself. I understand an arrangement was made with you to bring suit for the recovery of possession by Messrs. Price & Frow. Our desire is to have suit brought, if practicable, to the next term of the United States court, as Mr. League will inform you. The description of the land can be got from the deeds in the possession of Mr. League, but is more definitely described in the paper enclosed. Mr. League executed a deed to me here in July; but I have thought it would be better (if not necessary) to take from him another deed, because the acknowledgment of the new deed from Messrs. Menard & Williams, and, indeed, of the first deed, as to one of them, bears date subsequent to the date of the deed from Mr. League to me. I have also, since, obtained from Mrs. St. John another deed to Mr. League, as there was some defect about the certificate of acknowledgment of the previous deed from her. There should, I suppose, be a deed to me from Mr. League, bearing date subsequent to the completion of the deed from Messrs. Williams & Menard to Mr. League. For this purpose I have prepared and enclose the form of a quit claim deed from Mr. League and his wife, to obtain her relinquishment of dower, which I would suggest to have executed and duly acknowledged at once, before the bringing of the suit. I explained to Mr. League the supposed necessity of it, and he readily agreed to execute such a deed or any other which might be necessary to make out a chain of title to me. Mrs. League was not with Mr. League at the time he executed

the deed to me, and, consequently, her relinquishment was not then obtained. I have prepared the enclosed paper to save you trouble. Will you please examine it and see if it is in proper form in all respects, and get it completed as early as practicable, with proper certificates of acknowledgment, &c. It has occurred to me that if a quit claim deed could be got from Mr. Samuel M. Williams, attorney for General La Vega, direct to me, if he will do so, would shorten the chain of title, unless the fact that the conveyance to Messrs. Menard and N. F. Williams is on record and should be an obstacle to the use of such a deed. I suppose Mr. Williams would not object to the execution of such a deed if made sensible that there would be no risk or impropriety in it, as I suppose there could not be, if requested to do so by the person having the title—that is myself. I make this suggestion for your consideration, and if you think it would be of any service, and it should be practicable, you will please take this course. It seems to me it could, at least, do no harm, and it might be serviceable, or, at all events, save some trouble. If the defendants should show outstanding title by means of the record of the deed from La Vega to Messrs. Menard & Williams, if I understand the subject rightly, the only effect would be to impose on us the necessity (which would exist without a direct conveyance) of making out the claim. If, on reflection, you think it best this should be done, I will enter into any obligation or proper arrangement which might be desired by Mr. Samuel Williams for his protection against any unforeseen event; though, under the circumstances, it must be clear that in executing a simple quit claim, no responsibility would be incurred. The deed could be executed and delivered to you *with the express understanding* that it should be returned to him so soon as it had subserved the purpose intended, that is, to be used in evidence for the suit to be brought for the land. I authorize you to give him a written obligation to this effect.

I would be pleased to hear from you at your leisure. The other deeds and papers I will send on to you by Judge Watrous or Mr. League, who will probably set out for Galveston in the course of a few days.

Very respectfully, yours,

J. W. LAPSLEY.

JOSEPH HUGHES, Esq.,

Counsellor, &c., Galveston, Texas.

I wish to state, in connexion with a remark in this letter, that I was informed by Major Frow and Major Price, on their return from Texas, that they had employed Judge Hughes to bring the suit, provided we were to purchase the land. I would also state that I never received the deed suggested from Mr. League. I was advised by Judge Hughes that it was not necessary, and therefore I did not insist on it.

Question. When were you informed that these suits were brought in the United States court?

Answer. I learned it, probably, in the course of a few weeks after they were brought.

Question. Did you ever, at a subsequent period, give any instructions to have suits brought against the same defendants in the State courts?

Answer. No, sir; I did not. After instructing my counsel, Judge Hughes, to bring them in the United States court, I left the matter of suits to him.

Question. Were you consulted about bringing the suits in the State courts before they were brought?

Answer. I think not; I have no recollection of being consulted on that subject, or of having given any instructions in regard to it; I did not desire to have the matter litigated in the State courts, and had not intended that it should be.

Question. When were you informed of the intended transfer of the suits to Louisiana?

Answer. According to my present recollection it was in the winter of 1855 or fall of 1854. I got my information, as well as I recollect, by letter which I received from Judge Hughes. I got a letter from him stating that he had thought it would not be necessary to transfer the cases out of the State of Texas at all. He did not wish to transfer them, and thought it would not be necessary; and it was inconvenient to him to follow the cases out of the State. He wrote to me informing me that he had made an agreement with the attorney of the defendants, or of a portion of the defendants, to have the cases tried in Texas—that although Judge Watrous could not sit in the cases, being interested, he had agreed with the attorneys to select some disinterested member of the bar, in whom both parties had confidence and let him preside as judge.

Question. Do you recollect the date of that letter?

Answer. I can give you the date. I have not been able to find the letter itself, but I have a reference to it. I received various letters from Judge Hughes. One of them was as to a person on the land named Arnold, against whom a suit had been entered and which Arnold's attorney asked me to dismiss. I replied to him that I would refer the matter to Judge Hughes to investigate, and if he was satisfied that that gentleman was equitably entitled to his land, I would authorize him to dismiss the suit. I wrote to Judge Hughes to that effect, and he wrote me a reply stating that it was so, and that Mr. Arnold was entitled to the land, and that on the authority I had give him the proceedings were dismissed. The other letter is referred to in my letter to him, dated November 8, 1851, of which I have a copy.

The letter was read, as follows :

SELMA, ALABAMA, *November 8, 1851.*

DEAR SIR: I have received your favor of the 21st ultimo, (the first I have had the pleasure of receiving from you,) informing me that you had drawn on me, in favor of Mr. S. H. Duncan, No. 22 Cammon street, New Orleans, two drafts of \$50 each, payable thirty days after

date ; being, as you inform me, to reimburse you for a sum advanced by you to have the boundary lines of the "La Vega grant" run, and to make arrangements to prove the boundary in the trial pending against the settlers on the land in question. I have written Mr. Duncan, informing him where to present the drafts for payment.

You inform me that the suit would probably be tried in the United States court to commence at Austin on the second Monday in this month ; that though Judge Watrous, being interested, could not preside in the trial, you expected a trial would be had, by agreement, before some member of the bar, who might be selected to preside in place of Judge Watrous. You seem to think there will be an advantage to me in having the case tried in Texas, as your land laws are somewhat complicated and peculiar, and would be difficult to be understood by a judge of another State. I was induced to believe, by Mr. League, and probably one or two other gentlemen who were interested in the lands, that owing to the prejudice which exists in Texas against the eleven league grants, it would be best to try the case at New Orleans ; and I had supposed, indeed, that you were of the same opinion ; but in this it seems I was mistaken. Of course I must defer to your judgment, though I considered the suggestions of Mr. League and others, that it would be safer, on account of the prejudice which is thought might operate on the juries of Texas, to try the case in New Orleans. I was informed by Mr. League and Major Frow, both of whom are interested in the lands, that you were quite confident of success regarding the title, as I was informed you did unquestionably good. I would be pleased to hear from you the result, if you should get a trial at Austin ; and at all events to hear from you your opinion on the subject of the title, &c., at your earliest convenience.

Very respectfully, yours,

J. M. LAPSLEY.

ROBERT HUGHES, Esq., *Galveston.*

Question, (by Mr. Ready.) That is in answer to a letter from him written in October ?

Answer. Yes, sir. I find here also a copy of a letter to Mr. League, referring to the same matter, in which I express my objections to a trial in Texas still more strongly, and go into the reasons why I preferred a trial at New Orleans, but still leaving Judge Hughes to decide as he thought proper. These are the only copies of letters I find relating to the subject. Mr. League has acted as my agent in Texas, and sold portions of this land. I did not give him a formal power of attorney, except in particular cases, but I have made him my agent there generally.

This letter to him is dated 30th December, 1851.

The letter was read, as follows :

SELMA, ALABAMA, *December 30, 1851.*

DEAR SIR : I duly received your favor of the 12th instant, as also your message by Dr. Randall, in relation to the La Vega grant. I

have nothing that I know of consequence to say in reply; but your statement of the present value of the land is well calculated to excite our cupidity, and to render us anxious for an early and favorable termination of the suit. I must acknowledge that I was somewhat disappointed at learning from Judge Hughes that it was proposed to try the case at Austin before a judge to be chosen for the purpose by the parties or their counsellors. If the judge who presides at Galveston was incompetent, and was also to preside at Austin, and if it was desirable to try the case in Texas, I can perceive no sufficient reason for the transfer of the case to Austin at all. Why might it not as well have been tried (if the defendants would assent to the proposition to select a judge from the members of the bar) at Galveston? I suppose a sufficient reason existed for the course pursued, though I cannot perceive it. Without knowing the facts, but judging from what I suppose, I would have thought Galveston might have been the preferable place, as being further removed (so I suppose) than a more interior place from interested influences which might cause juries to lean in favor of defendants occupying the soil against an unknown non-resident. In such cases the prejudices and sympathies of juries would very naturally incline them to favor the defendants, more especially if some of the jury (a very likely case) should be interested in the question on the side of the defendants, or should have relatives or friends so interested.

These considerations induced me to suppose (and so I thought we all agreed at the time of the purchase) that it would be better to have the case tried in New Orleans than anywhere in Texas.

In the trial of these cases, I do not know exactly what questions will be submitted to the jury, but if any controlling question should be submitted to a jury biassed by prejudice, interest, or partiality, I would fear the result, and would prefer, if practicable, to avoid such an ordeal.

Judge Hughes stated in his letter, as a reason for preferring a trial in Texas, that the laws of that State are somewhat peculiar, and might not be readily understood by judges elsewhere. I have no special knowledge of the system of laws of Texas, but was under the impression that the origin of the laws of Texas and Louisiana was nearly similar, and that there was no very great difference in the systems prevalent in the two States. At all events, should this case go to the Supreme Court, as I supposed probable, no light could be thrown on the higher tribunal by the trial below, whether in Texas or Louisiana. One objection occurs to me (though it may really not exist) against the selection of a member of the bar to preside at the trial of this case. Would not his duty end when he had delivered his charge, and the case had gone into the possession of the jury? If so, suppose his charge should be disregarded, and the jury should decide for the defendants contrary to the charge, what would be our remedy? Would he have the power to set aside the verdict and grant a new trial? I would suppose not, unless expressly so agreed. But if this power should be expressly stipulated in the agreement between the parties, would a *pro tem.* judge be as likely to interfere

and set aside a verdict as a regular and independent judge? *I very much doubt it.*

I make these remarks and suggestions without knowing what weight, if any, they are entitled to, but I speak from pretty strong impressions. From the character and reputation of Judge Hughes, I am bound to conclude that he is a safe counsellor, and knows what he is about, though his course has been different from what I was induced to suppose would have been preferable.

Judge Hughes stated in his letter to me if his proposition to agree on a *pro tem.* judge, and try at the then approaching term of the court at Austin, was not acceded to, that he would have the case at once transferred to New Orleans. Your letter does not inform me what has been done, though I infer there was no trial. I will esteem it a favor if you will at your earliest convenience write me fully in reply.

Very respectfully and truly, yours,

J. W. LAPSLEY.

THOMAS M. LEAGUE, Esq.,
Galveston, Texas.

Question, (by Mr. Taylor.) Did you give any direct or particular instructions as to the mode of conducting these cases, or as to getting up evidence for the trial, while the cases were pending in Texas?

Answer. I wrote to Mr. League on the subject, and furnished him with means. I also wrote to Judge Hughes to take all necessary steps to get testimony.

Question. Did you, yourself, give any particular instructions as to any points of inquiry, or any particular testimony to be got, or was that left to the discretion of your agents in Texas?

Answer. That was left to the discretion of my attorney and Mr. League, because they had a better knowledge of it than I had.

Question. Were you at any time informed of the necessity of a power of attorney, or of their being any defect in a power of attorney, or of the absence of any power of attorney from Tomas de la Vega to Samuel M. Williams?

Answer. No, sir.

Question. Were you at any time informed about any difficulty in regard to it prior to 1855, when the case came up for trial at New Orleans?

Answer. No, sir; I consulted with Judge Hughes at New Orleans. I believe that was the first time I saw the power of attorney.

Question. Was there any discussion among you in relation to that power of attorney prior to that time?

Answer. I think not.

Question. Was your attention called to it all?

Answer. Not till I went to New Orleans. Judge Hughes, when looking over the papers showed me the power of attorney, and in what manner it was proved, which he considered all-sufficient, and he went to trial on the sufficiency of it. I relied on Judge Hughes' advice in that matter because I did not know what the laws of Texas were.

Question, (by Mr. Chapman.) Was it mentioned in the course of the consultation at Selma where the suits should be brought?

Answer. I think that thing was spoken of between myself and my friends. I have no particular recollection, but I presume it was spoken of. It was a matter which I supposed was understood.

Question. Was it understood that the suits should be brought in the United States court at that time?

Answer. Yes ; and the first information that I got of the contrary desire or intention was from Judge Hughes, stating that he preferred to have the cases tried in Texas. I do not recollect anything definite on that subject further than that the matter was talked over. My own opinion was very decidedly made up.

Question. Why did you prefer that the suits should be brought in the United States court?

Answer. I preferred it for the reasons stated in my letter to League, because I had understood that there was some prejudice prevailing in Texas against titles of this kind, and I was afraid to risk it before a local jury.

Question. Did you expect at the time that the suits would be brought in the United States court and tried there, or did you expect they would be certified for trial at New Orleans?

Answer. I expected that if Judge Watrous remained on the bench they would certainly not be tried there, but would be transferred to New Orleans. I understood that was the nearest court, and I expected it to be transferred there if Judge Watrous remained on the bench.

Question. Was there any doubt about his remaining on the bench?

Answer. None that I knew of ; but I did not know but death or some casualty would remove him from the bench. I never contemplated having the case tried in Texas if Judge Watrous remained on the bench. That was certainly never contemplated by me or any of my associates, as far as I have reason to believe.

Question, (by Mr. Clark.) What amount of the land embraced in your purchase did you understand at this interview in Alabama was held adversely to the title under which you claimed?

Answer. I cannot say ; but probably some eight or ten thousand acres.

Question. You supposed that there were ten thousand acres held adversely?

Answer. Held by persons who had gone on the land.

Question. Did they hold under adverse title or were they squatters?

Answer. I understood they were squatters.

Question. What number of persons were there on the land?

Answer. Some dozen, I suppose.

Question. Not more than a dozen?

Answer. I think there were a dozen.

Question. How many suits did you expect would have to be brought?

Answer. I did not know how many. I see that I speak in the letter of a suit ; and it would seem that at that time I did not contemplate more than one suit.

Question. You did not expect to evict these squatters except by judgment in ejectment?

Answer. I did not know but they might give up the land ; if not, I intended to sue them?

Question, (by Mr. Billinghamurst.) Was Judge Watrous present at these negotiations in Selma in July 1850, and when you were examining the title?

Answer. He was in the room.

Question. Did he take part in the negotiations?

Answer. The matter was discussed among us generally while he was there ; and it was understood that if we purchased we of Alabama were to advance all the money.

Question. Did you discuss with him the title?

Answer. No, sir ; nothing more than that Judge Watrous said that Judge Hughes was the best land lawyer in the United States, and that he had every confidence in him, and that he (Judge Hughes) believed that the title was a perfect title. He expressed himself very strongly about Judge Hughes, but I do not know that he spoke about examining the title himself.

Question, (by the chairman.) He was present when you were discussing the title in your office?

Answer. The discussion did not take place in my office ; it took place in Major Frow's office. Judge Watrous was there a portion of the time. I do not know that he was there all the time. We were there off and on some two days, but a great portion of that time I was employed myself in examining the title and drawing up the papers.

Question, (by Mr. Billinghamurst.) Have you had any correspondence with Judge Watrous touching the litigations about the land?

Answer. Not a word. The only letter I ever received from Judge Watrous relating to these lands so far as I remember, was one stating that he had given a lien on the land for his share.

Question. Did that letter call for any action by you?

Answer. It explained that the deed should be sent on, and that I should make the acknowledgment. He stated that he wanted to arrange some debts there, and had given a transfer of his interest to this gentleman, and he wanted me to accept the deed.

Question. When was that?

Answer. Last year or the year before. I think it was since the decision of the suits at New Orleans.

Question. Did you have any communication from Judge Watrous prior to your purchase of the land?

Answer. No, sir ; not a line. I never spoke to or heard from him on the subject till he was in Selma at the time he made the contract.

Question. Did you take any obligation from your neighbors for their share of the purchase money at the time you took this title?

Answer. Yes, sir.

Question. What amount did they obligate themselves to pay you?

Answer. They obligated themselves to pay me their proportion of the cost of the land, and of any expenses that might be incurred in relation to it.

Question. You state you took a note from Judge Watrous and Mr. League for a specific sum for their proportion ; do you recollect the amount ?

Answer. Some \$4,500, I think.

Question. What was the obligation that you took from the other parties ; was it a note ?

Answer. No ; it was the obligation produced here by Major Frow.

Question. Was there no other obligation ?

Answer. No, sir.

Question. Has that obligation on their part been discharged to you ?

Answer. Yes, sir. We had a settlement subsequently, and they paid me their proportion of the sum advanced. I am probably something in advance now.

Question, (by Mr. Taylor.) There was a certain portion of the purchase money to be paid after the completion of certain acts ; on whose order was that paid ?

Answer. On the order of Mrs. Sophia St. John.

Question. Drawn by herself ?

Answer. I think she was the drawer of the order.

Question. Have you the order.

Answer. No, sir ; not here. I have it at home.

Question. When was the fact communicated to her that she could draw ?

Answer. I think I wrote to her myself, or else I authorized Mr. League to tell her to draw on me. Mr. League was coming north, and I may have sent her word through him.

Question, (by Mr. Billingham.) Who was, in fact, to furnish the purchase money ?

Answer. The first advance was made by me individually. But the agreement was that Major Frow, Colonel Goldsby, Major Price, and Mr. Plattenburg, my neighbors, and myself, were to advance all the purchase money, and that Judge Watrous and Mr. League were to give their obligation to me, with a lien upon the land as security, bearing interest from date, for their portion of the purchase money. Mr. League's reason for applying was, that if we did not take it he expected somebody else to do so. He had actually made the purchase before he came to Alabama, relying on us, or on some other parties in the States.

Question, (by Mr. Clark.) Would you have entered into this arrangement at all but for your knowledge of Judge Watrous ?

Answer. Yes, sir ; I would as soon have done so without it.

Question. You understood him to be the medium of communication between yourself and these parties ?

Answer. No, sir.

Question. You had no previous acquaintance with League ?

Answer. No ; it was through Major Frow that I became acquainted with him. Major Frow and I have been dealing together in lands for some time before.

Question. Were you not disposed to facilitate Judge Watrous in a fair scheme to make a successful speculation?

Answer. My object was to make money myself. I had no objection to oblige Judge Watrous, as we had been old acquaintances and friends, but I was not induced to go into it on that account.

Question. Still you knew that he was to have a share in the profits without any advance of capital?

Answer. Yes; that was an arrangement between him and League.

Question, (by Mr. Ready.) Was there any agreement or understanding outside of the note executed to you by League and Judge Watrous that Judge Watrous was not to pay his portion of that note?

Answer. There was not, sir.

Question. Was there any agreement outside of that note that Judge Watrous was to render any services in connexion with the purchase and the acquiring possession of this land?

Answer. No, sir; I did not expect him to render any service one way or other. For that reason I never addressed Judge Watrous on the subject.

Question, (by Mr. Billinghamurst.) Have you ever called upon Judge Watrous or Mr. League for payment of the note?

Answer. I never called on Judge Watrous for payment. I have suggested to League that it was desirable that the note should be paid, but he requested us to wait till we could sell the lands. We were under no obligation to wait, but I simply waited. I authorized Mr. League to sell a portion of the land. He did sell a portion of the land; and the understanding was that if they did not pay the note, they would receive nothing at all.

Question, (by Mr. Billinghamurst.) You stated that in the fall of 1849, or forepart of 1850, after Major Frow's return from Texas, he informed you there was a valuable tract of land there which might be purchased?

Answer. Yes, sir.

Question. Did he state who gave him that information?

Answer. I cannot state certainly. He spoke of Mr. League as one party. I am not certain whether he stated he got the information from him or Judge Watrous; but I think Mr. League was the party from whom he got his information.

Question. Did he state whether he had had any conversation with Judge Watrous about it?

Answer. I think he stated that he had a conversation with Judge Watrous on the subject. I am not certain about that. But my recollection is that he mentioned having conversed with Judge Watrous, as well as League; but League was the party mainly spoken of.

Question, (by Mr. Clark.) You are a practicing lawyer?

Answer. Yes.

Question. And were at that time?

Answer. Yes.

Question. Did it not occur to you that the fact of Judge Watrous

having an interest in the lands might work an embarrassment in the way of recovery of possession of this land?

Answer. No, sir.

Question. You know he could not try them?

Answer. I knew he could not try them. I never contemplated that he should try them. I calculated that the cases would be removed to a court where they could be tried. New Orleans was the place where I expected them to be tried.

Question, (by Mr. Chapman.) You say it was your expectation that these suits would be brought in the United States court and transferred for trial out of the State?

Answer. Yes, sir.

Question. Was that the understanding of the parties in the conversation at Selma?

Answer. I do not know that there was any particular understanding on that subject. I think I left it principally with Judge Hughes to direct that matter.

Question. Was that spoken of?

Answer. I presume it was spoken of, although I cannot state positively. I think it was spoken of.

Question. In the presence of Judge Watrous?

Answer. Yes, sir. I cannot say that Judge Watrous ever said a word on the subject of bringing suits in Texas. My consultations were principally with the gentlemen in Alabama, with whom I was associated.

Question. Did you hear Judge Watrous, at any time, object to his exercising jurisdiction over these cases?

Answer. I have heard Judge Watrous say that he preferred that the suits should be brought in the State courts.

Question. Was that since the suits were brought, or since they were decided?

Answer. It was since they were decided at New Orleans; that the only time I recollect Judge Watrous speaking on the subject.

Question. When you met in consultation at Selma, did he object to exercising jurisdiction?

Answer. I do not recollect that he did, or that Judge Watrous was consulted in that sense, or that he was present when that matter was spoken of.

Question, (by Mr. Billinghamst.) Was it not one of the reasons why you required the title to be in yourself, that you might avail yourself of the federal jurisdiction?

Answer. No, sir; it was not, because I do not think I would have gone into the purchase at all and have left the title in any one in Texas. I do not think I would have been willing to go into the matter, except either myself or one of my associates had the control of it.

Question, (by Mr. Taylor.) Were there any peremptory instructions given by you that these suits should be brought in the United States court?

Answer. No, sir; nothing more than is contained in my letter to Judge Hughes.

Question. No other?

Answer. No, sir.

Question. There was no prohibition of their being brought in the State courts on your part?

Answer. I left that matter with my counsel, but I expressed my wish that they should be brought in the United States court. The only instructions that I recollect giving are contained in that letter.

WEDNESDAY, APRIL 7, 1858.

Continuation of the examination of John W. Lapsley.

Question, (by Mr. Billinghamst.) Have you brought with you the letters you received from Judge Hughes?

Answer. I produce before the committee all the letters, pertaining to this case, of my counsel, Judge Hughes, which I have been able to lay my hands on prior to leaving home. My office had been torn down, and my letters and papers removed in boxes helter skelter. I presume that if I had had another day to look after them, I might have been able to produce before the committee one or two more.

Question, (by the chairman.) Did Mr. League and Judge Watrous call at Selma on their return from the north in 1850; and if so, at what time?

Answer. I do not recollect now that I saw Judge Watrous any more that year. I have no recollection of having seen Judge Watrous after July of that year. I saw Mr. League, on his return from the north, in the month of October, 1850, and had an interview with him in regard to matters pertaining to these lands. I believe that I wrote by him to my counsel, Judge Hughes.

Question, (by Mr. Billinghamst.) Have you the letters you received from Mr. League on this subject?

Answer. On examining the letters I have brought I do not see any from Mr. League.

By Hon. L. D. Evans, counsel for Mussina and Spencer.

Question. The field notes and scrip, were they left in your possession by Mr. League?

Answer. Yes, sir; and conveyed to me.

Question. And remained in your possession until sent by Shearer to Judge Hughes?

Answer. Yes, sir.

Question. You referred to a letter from Judge Hughes, stating the value of the lands.

Answer. No, sir; I have never referred to any such letter. Judge Hughes never stated the value of the lands. Mr. League spoke of the value of the lands.

Question. Where is that letter?

Answer. I suppose it is among my letters at home, if it be preserved. It was not asked for, and I have not brought it here. I do not know that I could find it.

Question. Can you state the value of the lands as estimated at that time?

Answer. I do not know that I can. The value of the lands was variously estimated.

Question. I mean in the letter?

Answer. I cannot.

Question. When did you first learn that the testimony of Tomas de la Vega, and the testimony of the custodian of the archives of Saltillo, had been taken in your case at New Orleans?

Answer. Some time last year; the winter or spring of last year. I think it was probably the spring of last year.

Question. Has any of the parties interested examined the archives at Saltillo?

Answer. Not that I know of.

Question. Have you any information that the deposition of Samuel M. Williams has been taken in any of your cases in the United States district court at New Orleans?

Answer. I do not recollect that I have. I do not know whether I have been informed of the fact. I do not recollect that I have.

Question. Have you any information that Samuel M. Williams has made any affidavit, or sworn statement, relative to the power of attorney of the 5th of May, 1832?

Answer. I cannot say that I have any information on that subject; my impression is that I have heard the matter spoken of, but I am unable to state that any one has informed me that he made any affidavit on that point. I have an impression that Judge Hughes told me something of that sort.

Question. Did you attend the trial at New Orleans?

Answer. Yes, sir; I was there at the first trial.

Question. State all the evidence introduced in the case of yourself against Spencer, to prove the genuineness and authenticity of the power of attorney of the 5th of May, 1832?

Answer. That is more than I am able to do. There was a deposition, but from memory I cannot state whose it was. I do not recollect the name. I heard it read then, and I have not heard it read since. That has been several years ago.

Question. Was there any other testimony offered?

Answer. There was other evidence offered, but I cannot recollect its character. I cannot pretend to rehearse the evidence given in that case. I did not charge my memory with it. I did not fully understand the case, although I was present and listened to it.

Question. Was Thomas M. League offered as a witness?

Answer. Not that I remember.

Question. Have you any recollection about League?

Answer. If compelled to state one way or other, I would state that, to the best of my recollection, he was not examined. The reason I say he was not offered is this: in the first place I do not

recollect it, and in the next place it was known to Spencer, who was making the defence, that League was interested. He made an affidavit showing that he knew that fact. Every kind of exception that could be taken was taken to the whole proceeding; and in examining the bill of exceptions, I saw no exception taken to League's testimony in one form or another. I would, therefore, state to the best of my knowledge and belief, that League did not testify. If he had, I think there would have been some exception made to his testimony.

Question. Was it not offered to qualify him?

Answer. If there was anything of the sort, it has escaped my memory.

Question. Have you any information as to who are the present owners or claimants of the eleven leagues of land granted to Rafael de Aguirre?

Answer. I do not know anything on that subject.

Question. Know nothing of the claimants?

Answer. No, sir; and I do not know anything of the claim. I have heard of it. I do not know who are the claimants. I may have seen some of the documents relating to it, but I have no distinct recollection of it.

Question. Who have you heard speak of it?

Answer. I do not know. If I had been asked to name it, I could not have done so.

Question. It was the case litigated in Galveston, in the name of Ufferd *vs.* Dyches?

Answer. I have no knowledge of that litigation. I have never been in Texas. I could not state even that I knew there was a suit pending like that of Ufferd *vs.* Dyches. I think I heard Judge Hughes, and probably Mr. League, speak of such a case. I cannot say what they said about it.

Question. Did Major Frow ever consult you in reference to an agreement or understanding he had with M. D. Herring, esq., attorney of Spencer, about appealing from the decision of the court at New Orleans?

Answer. He never had any consultation with me about any such agreement, that I can recollect.

Question. State all the information you have on the subject?

Answer. Mr. Herring was counsel for the defendants whose cases were litigated there, or, at least, he represented himself as such, and acted in court as their attorney in defending the cases, in connexion with several other legal gentlemen. He seemed to be legal counsel in the cases. I got tired out. My court was coming on, and I had to leave the court before the cases were finally tried. I left Mr. Frow there. On his return he told me that Herring had made a proposition, on behalf of some of his clients, to purchase the lands at a certain price, and that he had agreed to sell them the land at the price named, subject to my approval or disapproval. If I approved it, then it was to be ratified; provided, too, that the parties in Texas assented to it. Those parties were not at court. The proposition was that they should pay a certain price for the land, and take a deed

or release from me. I believe that price was \$3 50 per acre. When Mr. Frow told me this, I answered that I was willing to ratify the agreement. I thought that was a reasonable price for the land, and was willing to let them have it. I believe that I wrote to Mr. Herring, or authorized Mr. Frow to do it, that I would assent to the proposition.

Question. Did you understand, if that was agreed to, that Spencer would not prosecute his appeal?

Answer. No, sir; Spencer had nothing to do with that. Some of the parties seemed determined never to compromise with Spencer. Some said that he had sworn falsely in court, and that he had acted so badly that they would not compromise with him.

Question. What parties do you refer to?

Answer. I refer particularly to Mr. Plattenburg, who was one of the parties. He was at the trial in New Orleans. The parties opposed a compromise with Spencer, but they did not refuse absolutely to sanction any compromise. They discouraged a compromise, and that, I believe, was the general feeling of the parties.

Question. A compromise with the other parties, through Herring, and to abandon Spencer?

Answer. No, sir.

Question. State your understanding exactly?

Answer. Abandoning nobody that I know of. The proposition was made on behalf of Thompson and Blankenship.

Question, (by Judge Hughes.) Did it include Mr. Bidwell?

Answer. It probably included Mr. Bidwell. There was nothing in that proposition relating to Spencer at all. Spencer himself made the proposition to me, in New Orleans, that he would take 320 acres. I was disposed to give it to him, but the others said they would not authorize me to do it. They did not want to compromise with him.

Question, (by Hon. L. D. Evans.) Had you any information from anybody else than Major Frow in reference to that compromise?

Answer. I talked about it after I went home—all of us—I mean all of us Alabamians.

Question. I speak of the arrangement with Herring?

Answer. That was spoken of with some of the other parties at home, perhaps with Mr. Plattenburg. I do not know whether it was mentioned to Goldsby or Major Price. I do not know whether they were there. I think it was mentioned to Mr. Plattenburg.

FRIDAY, APRIL 9, 1858.

Continuation of the examination of John W. Lapsley.

Question, (by Mr. Evans.) You alluded to expenses incurred by Mr. League in taking testimony?

Answer. Yes, sir; I did.

Question. What testimony?

Answer. I stated taking testimony, paying taxes, and running the boundary lines of the lands. I cannot say when, or how, or to whom

he paid it, but it was in taking testimony generally, and he charged for taxes and the boundary surveys. There was the testimony of Mr. Hewlett, or Hewitson, and Gonzales ; these are the only two witnesses I can recollect now whose testimony was taken, except that of Samuel M. Williams. I heard that his testimony was taken at some stage of the proceedings.

Question. Were you consulted as to the employment of John Treanor to take testimony as to the power of attorney ?

Answer. In reply to that I will state, that Mr. League had full authority from me to take such steps as he deemed necessary, and to employ such persons as he thought proper to obtain testimony ; but I have no knowledge about Mr. Treanor. He had no particular authority from me to employ him or any one else. It was a matter left to his discretion and judgment.

Question. Did he consult you about taking the depositions of Juan Gonzales, or about bringing Gonzales to New Orleans to give his testimony ?

Answer. No, sir.

Question. Were you consulted as to the employment of William G. Hale as counsel to obtain testimony ?

Answer. I was consulted as to the employment of Mr. Hale to argue these suits in the Supreme Court, and I think, as far as my knowledge extends, it was limited to that. I paid him \$500 myself for arguing the case in the Supreme Court, and he exhibited to me a written argument which he had made before the Supreme Court.

Question. You have no knowledge that he was employed for any other purpose ?

Answer. No, sir ; I have no recollection of his being employed for any other purpose. I paid his draft this winter for \$500, for arguing the case in the Supreme Court.

Question. It appears from the testimony of Treanor and Gonzales that they were to be paid a sum of money for their services, loss of time, &c. Have you been advised of any such obligation or payment, or have you been called upon to pay any portion of such expenditure ?

Answer. In reply to that, I would state that I furnished Mr. League with a sum of money, which was contributed partly by myself and partly by my Alabama associates, to be used in procuring testimony. Whether it was Mr. Gozales' testimony or not, we did not know. I was informed that some parties had gone to Mexico, and had obtained the testimony of Tomas de la Vega, to impeach the power of attorney. Mr. League informed me that he was satisfied that the power of attorney was a genuine one, and that he thought it likely, by going to Saltillo, he could get witnesses to prove what was necessary to counteract the deposition of La Vega. Without knowing who was the party, I and my associates furnished him with an amount of money, to be used in procuring that testimony.

Question. When did you furnish that ?

Answer. I believe it was last spring since the trial of the case at New Orleans ; it relates only, as I understand, to one case.

Question. What amount was it ?

Answer. I let him have \$2,500 at Selma.

Question. What case did it relate to?

Answer. The case now pending. I do not recollect what the defendant's name is. It was subsequent to the trial of the cases in New Orleans, after all the cases had been disposed of as I understand, except the one case now pending.

Question. Were you advised of the result of the effort to procure testimony?

Answer. Yes; I got a letter from Judge Hughes, giving me the substance of what testimony had been taken, stating that he had gone to New Orleans, and attended the examination of Gonzales, and he sent me, I think, a copy of the most important portions of his testimony.

Question. Is that all?

Answer. I believe I have answered your question.

Question. Have you information of interrogatories having been filed in the State court, at Waco, in the case of M. B. Herring against Eliphas Spencer?

Answer. Yes.

Question. State all about those interrogatories?

Answer. They were filed for myself and Major Frow to answer. They were filed by Spencer. The object of them seems to have been to prove by us that Herring had been bribed.

Question. Did you answer them?

Answer. The interrogatories were very long, and I prepared my answers myself. I had not completed them in full. There was no commissioner in Selma. The commissioner resided at Cahawba. He did not choose to come to me, and I did not choose to go to him, and so my answers to the interrogatories were not completed. I got a letter from Mr. Herring, in which he urged me to answer those interrogatories. I replied that I was perfectly willing to do so; that there was no commissioner appointed, and that I did not feel interest enough in the matter to hunt up a commissioner; but that if the commissioner called upon me, I was prepared to give my testimony. Mr. Herring seemed very anxious that I should answer them, and I promised to do so whenever the proper arrangements were made to take my testimony, and suggested to him the propriety of having a commissioner appointed at Selma, where I resided.

Question. What time was that?

Answer. I believe it was last spring or last summer. I had prepared my answers nearly in full, but did not complete them. If the commissioner had called upon me I was prepared to answer them. It may be proper for me to state that these interrogatories were filed by the counsel of Eliphas Spencer in a suit brought by Herring and Lewis for their fees in defending the case against him at New Orleans, I believe.

Question. Have you any recollection of hearing that Herring had given intimation at New Orleans to some of the parties, that if the compromise were carried out no appeal would be taken in the Spencer case?

Answer. I will state this in regard to that. I cannot be particular as to the precise information communicated to me by Major Frow, on his return from New Orleans. I think it probable that he stated, in connexion with that proposition, that Mr. Herring was of opinion that if we would compromise with Mr. Thompson and Mr. Blankinship, for whom he proposed a compromise, it would go far towards putting a stop to further litigation; and I am inclined to think also, that the inducement was held out that it might probably put a stop to all litigation in regard to these lands, or bring about a general settlement one way or the other. There was no agreement, however, or proposed agreement, that the Spencer case should not be carried up. It did not propose to control that at all. Blankinship, Thompson, and Spencer were, so far as I could judge from things at New Orleans, the principal parties contending for this land. There were other defendants, but none of them were at court, except Spencer and Blankinship. Blankinship, however, left there before the first trial and returned home. While Blankinship was there he made some efforts to bring about a compromise with me for himself and for Mr. Thompson, who, I believe, was related to him some way. These were the only parties he seemed to care anything about; and being induced to believe that they were the principal parties contending for the lands, and that they would bolster up and sustain Spencer, I was more disposed to compromise with them. Neither of them had made any affidavit in the case at New Orleans. All the swearing seems to have been done by Spencer. I had no feeling at all against these gentlemen, or any of the defendants, to render me disinclined to a compromise, except against Mr. Spencer.

Question, (by Mr. Craige.) Why did you dislike to compromise with Spencer?

Answer. My reason for it was simply this: Mr. Spencer had appeared in court at New Orleans, and had made an affidavit in which he swore recklessly and, as I had reason to believe, falsely, in regard to my case against him. He had manifested a disposition, as I thought, to defeat my case by any sort of means he could resort to; I became satisfied that he was an unprincipled man, regardless of truth, and that he had perjured himself at New Orleans, and I had it in contemplation to have him arrested for perjury during the session of the court there. That aroused my feelings somewhat against Mr. Spencer. No other gentleman with whom I was litigating had manifested any such spirit or had acted in any such manner. But still I did not refuse to compromise even with Mr. Spencer. I was willing to have compromised with him, but I did not feel a disposition to compromise with him on as liberal terms, by any means, as with the other parties.

Question, (by Mr. Evans.) I desire you now to answer, directly, whether it was not the understanding of the parties that if this compromise were made, Herring would not prosecute an appeal?

Answer. I think Mr. Herring, perhaps, stated, or that I was informed by some means, that he did so state, in substance, that his employment by Mr. Spencer related only to the court below, and that

having discharged his duty in that court his term of service ended ; and I think he stated that if we would compromise he would not pursue the case of Spencer any further, because he had not been employed to go beyond the court at New Orleans. I wish to state further in regard to this, that I may have learned this from Mr. Herring himself, in conversation at New Orleans, or I may have heard it from Major Frow, on his return, I am not sure which. But there was no intimation from Mr. Herring that he would do anything himself to prevent Mr. Spencer from taking his case up, but that having discharged his duty to him as far as he was employed, he would have no interest in pursuing the matter further, as matters then stood between him and Spencer. I think that was the substance of what I learned, either in conversation with Mr. Herring, or from Major Frow, on his return from New Orleans. I did not charge my mind particularly with the matter. I am speaking from mere impression.

Question. State in what manner the entire consideration for the land purchased was paid?

Answer. It was paid in cash, every dollar of it, I believe.

Question. Was it paid on drafts?

Answer. Yes ; except the \$2,000 which I paid to Mr. League at the time of making the trade with him.

Question. Drawn on whom?

Answer. Drafts drawn on me.

Question. By whom drawn?

Answer. The principal draft was drawn, I think, by Mrs. Sophia St. John. I cannot recollect now what other drafts there were, but that was the principal one. The \$2,000 I paid to League, and all that I understood was coming to Mrs. St. John she drew herself ; I think that, perhaps, Mr. Cordova may have drawn. I am not sure about that.

Question. Did any one else draw?

Answer. I cannot recollect any other name. Mr. Cordova, I understood, was Mrs. St. John's agent. My impression is, that he may have drawn for a portion of the money himself ; but the principal portion, according to my present recollection, was paid on Mrs. St. John's drafts, and they were all drawn on me.

Question. The consideration paid by League appears to have been \$7,000. The consideration in the agreement appears to have been \$9,000 ; how is that?

Answer. I think the sum we paid for the land was either \$9,000 or \$9,500. Whether this \$7,000 was inserted by mistake, or for some reason, I am not able to state ; but I am satisfied that the consideration for the land was much more than that. I cannot now think of any reason for its being put at \$7,000, instead of \$9,000, unless it was by mistake.

Question. You have stated that Mr. League did not give evidence in any of your cases. I wish you to state whether he was not offered as a witness?

Answer. I have not stated that he did not give evidence in any

case. I only stated that he gave no evidence while I was present that I remember, nor do I remember that he was even offered a witness. There may have been propositions of the kind, but I did not hear them.

Question. Your only business connected with League was in this land purchase?

Answer. That is the only connexion of a business character that I ever had with him.

Question. You corresponded with League?

Answer. I sometimes wrote to him.

Question. Have you copies of your letters to League?

Answer. Only one, and that has been read to the committee.

Question. Is that the only one you have a copy of?

Answer. That is the only copy I have been able to find in my letter book, and the only one that I remember.

Question. At the time Judge Watrous was at Selma, when you were arranging the contract for the purchase of the land, did he not describe the entire chain of title commencing with the grant to La Vega?

Answer. Not that I remember.

Question. Had you no conversation with Judge Watrous on the subject of the title?

Answer. Yes ; I think I had some conversation so far as to ask him about what he thought of the title. He told me that Judge Hughes had pronounced the title good, and that Judge Hughes was, in his language, the best land lawyer in Texas, or perhaps he may have said in the United States. He spoke of him in very high terms ; but I have no recollection of Judge Watrous ever stating that he himself had examined the title at all. He seemed to have an unbounded confidence in the legal capacity and ability of Judge Hughes.

Question. Did you rely entirely on the statement of Judge Hughes as to the validity of the title?

Answer. I want to state on what I did rely. Mr. Price and Mr. Frow, as I stated, went to Texas some time before the purchase to have the title examined. They both, or one of them, reported that the title had been examined. I think they stated that they had employed Judge Hughes to examine it, and that Judge Hughes had pronounced the title good. They spoke of Judge Hughes' reputation as a lawyer in Texas, with which they seemed to be entirely satisfied. When Judge Watrous and Mr. League came to Selma, I think I asked Judge Watrous, in the course of conversation, in regard to the matter, and in regard to Judge Hughes. I think his statement was, "Judge Hughes has examined the title, and I consider him the best land lawyer in Texas," (or in the United States, I do not know which he stated,) and he expressed the fullest confidence in Judge Hughes' legal opinions, particularly in regard to matters of land titles. He expressed himself perfectly satisfied that the title was beyond question.

Question 2. Judge Watrous did?

Answer. Yes, Judge Watrous ; and I relied on his great confidence in Judge Hughes' ability, who had examined the title.

Question. You relied on that ?

Answer. I relied on these representations and on the deed of Mr. League, which I considered at the time tantamount almost to a warranty title. I relied also on Mr. League's strong faith in his own title. He seemed to have an undoubting and abiding faith in the perfection of the title. I relied somewhat on his confidence in the matter. He had also consulted with Judge Hughes, and had as high an opinion of Judge Hughes as Judge Watrous had. All these things combined brought my mind to the conclusion to trust to the title. It was not one of them alone, perhaps, but the whole of them, as I stated. I think that probably during that conversation Mr. League gave his opinion that there would be very little, if any, litigation about the lands when the matter came to be tested.

Question. And you then refrained from asking Judge Watrous relative to the title ?

Answer. I have stated that I conversed with Judge Watrous, but what particular questions I asked him I cannot recollect.

Adjourned.

FRIDAY, APRIL 9, 1858.

Examination of John W. Lapsley.

The preceding evidence having been read to the witness, and he having desired to make some corrections, he is now permitted to do it.

WITNESS. In page 2 I am made to state that Mr. League and Judge Watrous would like to have purchased an interest in the land, but that they had no money. I should not like to say they had no money, but that they had not the funds.

Page 7. It is stated that I was in the habit of spending the summer with my family at Shelby Springs ; I mean a portion of the summer.

Page 8. I said that I had been acquainted with Judge Watrous a good many years, and that he generally called on me when passing through Selma. I would rather state that he sometimes called.

On page 9 I wish to say, instead of the statement that Messrs. Goldsby and Plattenburg happened to be in Selma on that day, that Messrs. Goldsby, Plattenburg, Price, and Frow were also there on that day.

On page 10 I wish to state that I saw the original grant at the trial at New Orleans, and also to add this among the papers exhibited at Selma. There was, I believe, also a deed of some kind from Samuel M. Williams to Mrs. St. John, as well as to her trustees, Menard and Williams.

On page 11 strike out the word "then," underscored.

On page 12, instead of the word "have," insert the word "had."

On page 35 strike out the word "well."

On page 36, after the word "covenants," insert the words "in substance."

On page 37, instead of the word "after," insert the words "simultaneously with."

Page 40. For the words "the reason assigned why we advanced the money" substitute the words "the reason assigned for offering the land to us."

Page 41. Strike out the word "willingly."

Page 43. Strike out the word "then."

Page 44. Instead of stating that I have never received anything from Mr. League or Judge Watrous, I propose to state that Mr. League has rendered an account for considerable payments made by him for taxes on the lands, expenses for suits, taking testimony, and other matters pertaining to the suits, and which have been allowed him in settlements.

Page 47 $\frac{3}{4}$. After the word "home" insert the words "without some strong inducement."

Page 48. Strike out the words "I think." Same page, before the word "recollect," on the last line, insert the word "if," and after the word "recollect" insert the word "correctly," so that it will read "if I recollect correctly."

Page 49. Instead of the word "or" insert the word "and."

Page 50. After the words "at all," on the fourth line, insert the words "at that time." Same page, strike out my answer down to the word "attention," and insert the following: "I confined myself to an examination of the papers which Mr. League then produced, to wit, the papers before referred to as seen by me at Selma. I did not, in my examination, go beyond the title of La Vega. I understood that Judge Hughes had examined the title of La Vega and the other papers down to the title of Mrs. St. John or her trustees, and I relied on his judgment as to that matter."

Page 51. After the word "Alabama" insert the words "and talking with Mr. League about the trade."

Page 52. First line, after the word "were" insert the words "the greater part of."

Page 52. I propose to substitute this answer to the question: "I understood there were persons occupying portions of the land called squatters, and I expected that it would be necessary to bring suits against some of them to eject them. I obtained this information from Mr. League."

Page 53. Between the word "that" and the word "suits" insert the word "some."

Page 54. Instead of the words "in the spring of 1855" insert the words "in the year 1855 or 1856." Same page, after the words "met him" insert the words "that I remember I may have seen him on the steamboat at Selma, on his way to or from Washington, in 1855." Same page, strike out the words "in New Orleans," and add after "1855" the words "or 1856."

Page 55. For my answer to my first question I propose this as a substitute: "Yes, sir; I have here copies of several letters which I addressed to Judge Hughes; two of them are dated 31st October, and

2d November, 1850 ; these letters contain the only instruction I ever gave Judge Hughes prior to the commencement of the suits. I had an interview with Mr. League in the fall of 1850, on his return from the north, and expressed to him freely my wishes in regard to the matter, and he was authorized to communicate with my counsel, Judge Hughes. I do not now remember any definite instructions that I gave Mr. League at that time. I desire to have these letters inserted in my testimony in the order of their date."

SATURDAY, APRIL 10, 1858.

Continuation of examination of John W. Lapsley.

Question. During the negotiations at Selma, were you not informed that there were some settlers on the land, who claimed possession under some one-league colony grants?

Answer. I have no recollection of having received any such information.

Question. Had you any information that there were any who held possession under the location of land scrip?

Answer. I think it was mentioned that some held under head rights. I do not know that anything was said about land scrip.

Question. Were you not informed that there was a colony under a one-league grant located within the boundaries of the La Vega grant?

Answer. I do not think that there was anything said of it at that time ; but probably I did hear it afterwards.

Question. Have you any information that although the first deed was made to League, the purchase was nevertheless made on joint account and on the joint interest of League and Watrous?

Answer. No, sir ; I have no such information. I do not think I ever heard anything of the kind.

Question. When did you first hear that Judge Watrous was interested in this La Vega grant?

Answer. The first time I heard it was at Selma, when the contract was made.

Question. When did his interest commence?

Answer. His interest commenced, so far as I have any knowledge, when the agreement that has been read here was signed between the parties at Selma, in July, 1850.

Question. About what time had you the conversation with Herring, in which he stated that his connexion with the suit would end with the judgment?

Answer. I stated yesterday that I did not recollect whether I heard it from Herring, himself, or from Major Frow. If I had any such conversation with Herring, it must have been in New Orleans, in the spring of 1856, which was the only time I ever saw Mr. Herring.

Question. After you left New Orleans had you any correspondence with Herring, relative to any compromise or sale of the land to Thompson or others?

Answer. I got one or two letters from Mr. Herring, but I think

that his correspondence on that subject was with Major Frow. I think I saw a letter from him to Major Frow on that subject. The letter he wrote to me related to the interest of Mr. Bedwell. He wrote on behalf of Mr. Bedwell, asking me to sell to Mr. Bedwell on as liberal terms as I could. He seemed to be very anxious that Mr. Bedwell should get his land on favorable terms. I do not think that in that letter he stated anything about the compromise with Thompson and Blankership.

Question. Did he make any reference to other matters in that letter?

Answer. Yes, sir.

Question. To what others?

Answer. I received two letters from him. In one of the letters he made a reference to the fact that Spencer had filed interrogatories to me in view of trying to prove certain facts, and wished me to answer them. He asked it as a favor from me to answer these interrogatories. I believe these are the only subjects he alluded to particularly. There may have been some other matters alluded to, but nothing of any importance, that I remember.

Question. Did you see his letter to Major Frow, in relation to the compromise with Thompson?

Answer. I think I did; and I think he also wrote to me on the same subject, in which he stated that they had declined the proposition. That was the substance of his letter to me and to Major Frow, so far as I recollect—if I saw that letter, as I think I did.

Question. Was not the subject of Herring's connexion with the Spencer suit discussed in conversation between yourself and Judge Hughes?

Answer. No, sir; I do not think that any point of discussion ever arose about Herring.

Question. Was it not spoken of, before you left the city, that Mr. Herring's connexion with the suit would end with the judgment?

Answer. I am inclined to think, as I stated before, that he remarked to me that he did not expect to pursue the case beyond that—that his service terminated with the trial there.

Question. Was that understood by Judge Hughes?

Answer. Not that I know of; I never conversed with him in the presence of Judge Hughes, and I never, to my knowledge, heard him and Judge Hughes conversing on that subject. I don't think that Judge Hughes visited him at New Orleans, nor do I think that he visited Judge Hughes. I called on Mr. Herring myself once or twice. We boarded at the same hotel, and I stepped into his room several times.

Question. After hearing that the Spencer case was decided in your favor, did you not state to one or more of your associates, or some other persons, that the case would not be appealed from?

Answer. No, sir; I said no such thing. I had no right to think so, and certainly I never said so.

Question. Did you not suppose that it would not be appealed from, if this compromise were carried out?

Answer. I thought that if the other parties were compromised with, there was much less likelihood of the case coming up. That was my supposition on general principles, without having any authority for it.

Question. Was not Judge Hughes absent from Galveston when the requisition was made on you to pay the \$2,500 to obtain testimony to prove the power of attorney?

Answer. That is impossible for me to say, because I was never in Galveston, and do not know where Judge Hughes was.

Question. Who first advised you of the necessity of this expenditure?

Answer. Mr. League.

Question. Did you advance the money on the first requisition, or did you have some correspondence on the subject?

Answer. Mr. League came to Selma, and I paid him the money there. The first knowledge I had of the matter he communicated himself, in person, and I called on my associates in Alabama, and each of them advanced his proportion of the money necessary to be raised. I had some funds belonging to the company in my hands at the time, and they paid their proportion of the balance.

Question. Had you not information that Judge Watrous was consulted on the subject, and had objected to this title?

Answer. No, sir; I do not recollect that I had. I think Mr. League spoke of Judge Hughes, and am pretty certain that he brought a letter from Judge Hughes, written at Galveston.

Question. Did you advance or pay this money on account of the company?

Answer. Yes, sir.

Question. Have you not stated that you relied on League's warranty of title down to Mrs. St. John.

Answer. Yes; I stated so at the time I made the purchase. That was one of the things I had to rely upon.

Question. Did he not warrant against this defect in the title?

Answer. The deed speaks for itself.

Question. You spoke of requiring League to sign an extraordinary deed?

Answer. Yes; and as I have nothing to conceal on that point, I will go on and state that when Mr. League came to Selma at that time, he asked us, as a matter of favor, to release him from that obligation. He said he thought it was unreasonable that he should be required to warrant that land. We talked the matter over among ourselves. I stated, as I have stated to the committee, that my object in requiring him to sign that was as a guarantee of good faith on his part, and we voluntarily released him from it. That was in Selma, last spring. We did it without any consideration, because we had become satisfied that Mr. League had dealt in perfectly good faith with us, and that everything was fair with him. We thought, therefore, that it was unnecessary, and perhaps not liberal, to hold that warranty over him, and we voluntarily released him.

Question, (by Mr. Taylor.) Is there any written instrument showing that release?

Answer. Yes, sir; Mr. League has it, I presume. It was merely a release from these stringent portions of the deed requiring him to warranty.

Examined by Mr. Hughes.

Question. You spoke of and exhibited letters written by you to me; do you know where Judge Watrous was at the time those letters were written?

Answer. He had gone on to the north; I am unable to say where he was. And I will state that I do not recollect having seen Judge Watrous any more that year.

Question. You never saw him again until after the commencement of these suits, did you?

Answer. I think not. I have no recollection of seeing him until after the commencement of these suits.

Question. When did you first see Mr. League after he left Alabama and came on to Maryland?

Answer. I think in October or November of that year.

Question. Did you then have any conversation with him as to the commencement of these suits?

Answer. I think I did. I gave him my views at that time in relation to the bringing of the suits specially.

Question. State whether you ever recollect having any conversation prior to that time with any person besides Mr. League and the persons interested with you in Alabama in relation to the court in which these suits were to be commenced?

Answer. I wish to state, generally, on that point, that my recollection is very indistinct, and that I speak more from impressions than recollections. If the matter of bringing suits was talked of at all when we were negotiating with Mr. League, I do not recollect it; but if it was talked of at all it was an incidental matter. It was not a matter which entered into the spirit or consideration of the contract in any form or shape. I feel certain of that fact. I think that probably the matter was spoken of at some time while the parties were at Selma, but that is more a matter of impression than recollection. I rather think it was spoken of after the contract had been closed.

Question. If it was spoken of before or after the making of the contract, at what place do you suppose it was?

Answer. I think our conversations, when we were together, occurred almost entirely in Major Frow's office. I do not think we met at any other point on that business.

Question. Can you say with any distinctness at what time Judge Watrous was there, and how long he remained at that place?

Answer. No, sir; I cannot. We all met there; Mr. League produced his papers and made his propositions and his statements in relation to his title. The papers were then referred to me to ex-

amine. I did so. I ascertained from my Alabama friends that they were willing to go into this purchase, provided I was satisfied that the title papers were right, and I was willing to do the same myself. As I stated I was not satisfied with the chain of title which Mr. League produced, because there was, as I thought, a defect in the manner of executing some of the deeds ; but understanding that Mr. League would have all these defects made right, and he offering to give a bond, with Judge Watrous as security that he would do so, and we being only required to pay \$2,000 till that was done, I and my friends determined to make the purchase from Mr. League, provided he would sign such a deed as I thought proper he should sign, and that was the deed, a copy of which has been exhibited here.

Question. Was that at the first meeting on the subject?

Answer. Yes ; I think that occurred at the first meeting.

Question. Was Judge Watrous present?

Answer. I think Judge Watrous was present at the first interview. Perhaps I should go on, and state that after this conclusion was come to I went to work to examine the papers, and having examined them and ascertained from Mr. League that he would make all this matter right, I went to work preparing the other papers. While I was engaged in this, the parties, I think, separated ; some of them went out of the office, and some of them remained ; perhaps Major Frow remained. After conversing with Major Frow on this subject, since I testified before, my impression is that I did the writing in his office.

Question. How long was it after your first meeting before the second meeting was had in which the papers were executed?

Answer. I think they were executed the next day.

Question. Did you have any conversation with Judge Watrous between the time of the first meeting and the second?

Answer. I do not remember having had any conversation with him between these times.

Question. When you met on the second occasion for the purpose of executing the papers, was your attention called at any time, and if at any time, at what time, to the fact that Judge Watrous was present?

Answer. We all met there—Judge Watrous and the rest of us.

Question. When you first arrived was he there, or did he come in afterwards?

Answer. It puzzles me to say ; I cannot recollect.

Question. State what occurred in relation to the warrantee being urged on him ; did Judge Watrous urge him to sign it?

Answer. I think he did.

Question. Did he participate otherwise actively in the proceedings towards the execution of this instrument, besides in that particular, except when he came to sign it?

Answer. I think all the parties were present when it was read. I read it over. Mr. League protested that it was wrong to require him to execute such a deed. I think I remarked, "It is nothing more than you yourself assert. You say you have undoubted con-

fidence in your title, and that your counsel, Judge Hughes, has given you this advice; why not sign it?" Judge Watrous told him, "You can sign it with perfect safety, Mr. League, because I am satisfied myself that the title is good." As to urging him particularly, I do not know that he was very urgent about it; but he advised him to sign the paper. Mr. League hesitated for some time. I am inclined to think that the reason of his hesitation was to see if I would not recede. The other gentlemen seemed to leave it to me to fix that matter. I think, perhaps, I made this remark, or something equivalent to it, that unless that paper, or something equivalent to it, was signed, I would not go into the matter; and it was at that time that Judge Watrous advised him, or rather urged him, to sign the paper, and he did sign it.

Question. Do you recollect his participating in what was said or done there, beyond that advice, and the signing of the agreement when it was read?

Answer. No further than his stating that you (Mr. Hughes) had examined the papers, and that you had pronounced in favor of the title, and that he was entirely satisfied that the title was good.

Question. I understand you, then, to say that you cannot specify any other participation than that in the thing going on there?

Answer. Judge Watrous spoke of the quality of the land. That the lands were valuable, being situated on the Brazos river. That was a matter which came up in the course of conversation.

Question. I want you to reflect on the subject of everything said and done there, so as to say whether you do or do not recollect if Judge Watrous said anything in regard to where the suits were to be brought?

Answer. My impression is that that matter was not spoken of till after we got through the signing of the papers. I have some recollection that some time while the parties were at Selma, this matter was spoken of; but I think it probable it was after the contract was concluded or agreed upon, although I will not say that the matter was not alluded to before.

Question. Was there any agreement as to the bringing of the suits?

Answer. No, sir; it never was a matter of agreement that I know of. I had made up my mind, if I bought the land and if suits became necessary, that I should direct them to be brought in the United States court. I thought it likely that, if there was litigation, it would not terminate short of the Supreme Court, and I preferred that the matter should be adjudicated in the Supreme Court of the United States.

Question. How long have you known Judge Watrous?

Answer. I have known him at least twenty-five years.

Question. Where did you first become acquainted with him?

Answer. He resided in Selma when I first knew him, and practiced law there for a number of years.

Question. What time was that?

Answer. He was practicing law there as far back as 1830, or, perhaps, 1829, and from that time till he left the State to go to Mississippi. I had gone to Kentucky to attend a law school there, and was

absent some two years. When I left for Kentucky, Judge Watrous was at Selma; that was in 1833; when I returned, in 1835, Judge Watrous was at Selma. About that time, or during that year, he went to settle in Mississippi.

Question. Did you know of his ever going to Texas between the year 1832 and the time of his leaving Alabama?

Answer. I never heard of his going to Texas until he removed there from Mississippi.

Question. What time was that?

Answer. I think he was practicing law in Mississippi in 1836; I think he practiced law there for two or three years, and then I heard of his removal to Texas. That was probably in 1837 or 1838.

Question. When did you first see the grant to Tomas de la Vega?

Answer. The first time I recollect seeing it was in New Orleans, when I went there to attend the trial of these cases, either in 1855 or 1856; I think it is probable I was there twice. The first time I went there to attend the trial, I think you (Mr. Hughes) exhibited the papers to me, and among the rest, probably, that Spanish grant.

Question. Did you also then see the power of attorney the first time?

Answer. I think so; I mean the power of attorney from La Vega.

Question. State whether in the arrangements you made with your friends in Alabama, and with Mr. League, and Judge Watrous, there was any effort to conceal what you did, or whether anything was secret in regard to what you did?

Answer. Nothing whatever that I know of. I think it was as open as contracts of that kind usually are. The deed was copied by my office clerk without any injunction of secrecy on him or on any human being that I know of.

Question. Was not the place where the contract was executed a public place?

Answer. It was a tolerably public place for a private place. Gentlemen resorted there very often.

Question. During the progress of the contract were not the doors open, and people coming in and out?

Answer. The doors were not closed. It was during the summer season, and the weather was warm.

Question. In making that contract did you, or your associates, treat with Judge Watrous, or with Mr. League?

Answer. Mr. League was the party I treated with, and I suppose I ought to say, with Mr. League alone; I do not recollect having anything to do with Judge Watrous, except as before stated.

Question. Did you understand at the time the negotiation was going on that Mr. League had made the purchase prior to the time that Major Frow and Major Price went to Texas?

Answer. No, sir; I think he purchased it after they went there. He stated that he had got some time, perhaps some 60 or 90 days, to make the payment, except probably as to the \$2,000 which he was obliged to pay sooner. I am inclined to think so from the fact that I paid him the \$2,000 at the time of the contract. My impression is

that I had some sixty days myself, if I required it, to pay the balance of the purchase money.

Question. You spoke about as to whether you were, or were not aware of the necessity of bringing suits; did you at that time believe that any suits were necessary?

Answer. I believe I stated in my former examination that I expected suits would be necessary. I thought it probable, from information I had, that some of the parties would contest my title, and that it would probably be necessary to bring suits against some of them, but how many I did not know, or had no definite opinion upon. In my letter to you (Mr. Hughes) I see that I spoke of a suit, from which it would appear that I calculated that one suit only would be brought; but I do not know precisely now what was in my mind at that time on that subject; I only speak from my best recollection and impression as to what the facts were.

Question. What did Mr. League say in regard to the necessity of bringing suits at that time?

Answer. My recollection, I state, is very vague and uncertain on that whole matter; but my best impression is, that Mr. League represented to me that there was not a probability of much, if any, litigation arising out of this title which he was conveying to me.

Question. Did you understand that there were several persons in possession there holding under Mrs. St. John?

Answer. Yes, sir; one or two; and these persons, it was understood, were not to be disturbed in their rights.

Question. State what was said on that subject. As to those persons holding under Mrs. St. John, was not the only question as to the amount of land to which they were entitled by virtue of agreements made before your purchase?

Answer. Yes; I think so. I ought to state here, probably, that Mr. Arnold claimed under a person who, as I understood, had purchased from Mrs. St. John. A suit was commenced against him; but on my being informed of the fact, I referred the matter to Judge Hughes to adjust, and I readily agreed to have the suit dismissed.

Question. Was there any other reason for your not bringing the balance of the letters which you received from me, besides the fact of your not being able to lay your hands upon them?

Answer. None other in the world. I brought all that I was able to find before leaving home, and I had spent some hours, perhaps, in looking over my papers.

Question. Listen to this plea, which I will read to you, in the case of *Lapsley vs. Spencer*, and tell me how far it is true, and what portions of it are untrue or false:

"John W. Lapsley *vs.* Eliphas Spencer, in the circuit court of the United States for the eastern district of Louisiana, April term, A. D. 1856: And now comes the said defendant, and amending his original and amended answers hereto filed herein, says, that said plaintiff ought not further to have and maintain his said action, because he says that said plaintiff is only the legal or nominal holder or owner of the grant of land claimed by him, said plaintiff, in his petition. And

defendant further says, that this court hath not jurisdiction of this cause or suit, for the reason following, to wit: The apparent legal title to the land in controversy was fraudulently conferred upon and vested in said plaintiff by collusion between said plaintiff and the Hon. John C. Watrous, Thomas M. League, and Thomas J. Frow, in order to litigate and establish said fraudulent grant before the federal court of Texas, presided over by the said Hon. John C. Watrous. And defendant avers that said Watrous and League, citizens of the State of Texas, and said Frow, a citizen of Alabama, are equally interested, and were the parties in interest at the time of the pretended transfer of said grant to said Lapsley; and said parties were domiciliated as aforesaid at the time of the institution of this cause or suit in the said federal court of Texas."

Mr. BILLINGHURST, (to Mr. Hughes.) With what view do you offer this evidence?

Mr. HUGHES. To show that Mr. Spencer told an untruth.

After consultation by the committee as to the propriety of admitting the question, the two following forms of question were agreed on:

Question. It has been said, in Spencer's plea, that the apparent legal title, to the land in controversy, was fraudulently conferred upon and vested in yourself, by collusion between you and Hon. J. C. Watrous, T. M. League and Thomas J. Frow, in order to litigate and establish said fraudulent grant before the federal court of Texas, presided over by the said Hon. J. C. Watrous. State your knowledge of the facts.

Answer. I answer that the charges of fraud and collusion referred to in this interrogatory, so far as I am concerned, and so far as I have any knowledge, are utterly untrue and unfounded; that the purchase was made by me with my associates in good faith, for the purpose of obtaining the land fairly and honestly, and not for the purpose of conferring jurisdiction on the federal court of Texas, or any other court in particular.

Question. It has been stated in Spencer's plea that Watrous and League, citizens of the State of Texas, and Frow, a citizen of Alabama, are equally interested; and were the parties in interest at the time of the pretended transfer of said grant to said Lapsley; and said parties were domiciliated as aforesaid, at the time of the institution of the cause or suit, in the said federal court of Texas. State your knowledge of the facts.

Answer. My knowledge of the facts is, that they were domiciliated as therein stated—Judge Watrous and Mr. League in Texas, and Major Frow in Alabama—and they were all of them interested in the land; but there were other parties also interested, as I have hereinbefore stated.

Question, (by Mr. Hughes.) At the time that you made that purchase, which you have spoken of, did you know or had you any idea that the power of attorney that has been spoken of, from Tomas de la Vega to Samuel M. Williams, was a forgery?

Answer. No, sir; I had no reason whatever to suspect then that there was anything forged about any portion of the title.

Question. Is it true that that instrument was a forgery, and that you knew it to be so, and that it was attempted to be sustained with the advice and consent of Judge Watrous?

Answer. It is not true, as far as my knowledge or information extends, nor have I any reason to believe it to be true in any particular. This answer is applicable to the whole question.

Question. Was there ever any agreement or understanding between you and the other parties you have spoken of and Judge Watrous that the land was to be conveyed to you, in order that jurisdiction might be given to the federal court, and that suits might there be commenced, so as to give Judge Watrous an opportunity of deciding the cases, for which, when so decided, he was to receive a portion of the land? Is that true or false?

Answer. That is untrue in every particular, to the best of my knowledge, information, and belief.

Question. As far as your knowledge extends, is it untrue?

Answer. It is. I have already stated that it was never contemplated that Judge Watrous should decide any matter pertaining to those lands that might be litigated.

Question. Do you know or have you ever heard that Judge Watrous counseled and procured the apparent legal title to be made to a non-resident of the State of Texas, thereby to confer jurisdiction on the federal court at Texas to hear and determine any suit that might be brought to test the validity of said title to the land?

Answer. I do not know it, and I have never heard it except through affidavits and pleas of Eliphas Spencer, and I have no remembrance of having heard it from any other source except in newspaper articles?

Question. Have you already stated what was the object of the purchase made by you and your associates in Alabama; if not, please state it now?

Answer. My object was to make what I considered a valuable purchase of land, and, so far as I knew the motives of my associates, they were actuated by the same motives, and by no other.

Question. You spoke of the reason why you had confidence in the title; did you at any time rely upon the opinion of Judge Watrous as to the validity of that title—I mean on his own opinion—unconnected with the advice he may have got from anybody else?

Answer. No, sir; I did not. I refer to my previous answer on that subject.

Question. State what was the reason, as far as you know, of Judge Watrous being let into that agreement?

Answer. I do not know the reason. So far as I was concerned, I was as willing that Judge Watrous should come in as any other person. It was proposed for him to come in, and I made no objection.

Question. By whom was it proposed?

Answer. I think Mr. League stated that Judge Watrous was to be interested in the matter. That was part of his proposition, that Judge Watrous was to purchase an interest in the land, and to give his obligation.

Question. In speaking about the testimony that was taken in the

first at New Orleans, was the deposition of Williams used on that trial, or was it taken since that time?

Answer. I would prefer now to go on and state, inasmuch as I misapprehended the scope of the question on the subject heretofore, what testimony was used according to my recollection. I ask to state that, because my answer seems not to have conveyed fully what I ought to have stated in answer to a previous similar interrogatory. I believe I was asked, what testimony was produced at the trial? I would now state that most of the testimony was documentary—the grant from the government of Coahuila and Texas to Tomas de la Vega, and the other documentary evidence heretofore referred to by me, relating to the title. A power, or what purported to be a power of attorney from Tomas de la Vega to Samuel M. Williams, was introduced and proved, or sought to be proved, by a deposition of one Hewlit, or Hewitson, with whom I have no personal acquaintance. My counsel, Judge Hughes, was sworn, to identify the power of attorney then offered as the paper that was referred to by the witness Hewitson in his deposition. I remember no other evidence that was introduced at that trial, on behalf of the plaintiff, while I was present. I was informed that Williams' testimony had been taken; but I now state that I have no recollection of its having been at the trial, but I was informed that it was subsequently taken.

Question. How long did you remain at New Orleans?

Answer. I think I was there ten or twelve days at the time of the trial.

Question. Was that the first trial or the second?

Answer. The first trial.

Question. You were not there at the second trial, I understand?

Answer. I was not there at the second trial. I was there some days after the trial, when a motion was made for a continuance of the arguments, and reading affidavits on which motion occupied several days.

Question. When, and where, and under what circumstances, did you first see Mr. Simon Mussina, now present?

The CHAIRMAN, (to Mr. Hughes.) What is the purpose of that question?

Mr. HUGHES. I want to prove his improper interference with the proceedings in this case.

Question overruled.

Question. Have you got a copy of the opinion of the Supreme Court in the case against Spencer?

Answer. Yes.

Question. It has been decided in the Supreme Court?

Answer. Yes sir; in February last.

Question. There was something said about a deposition of Mr. Herring, and about interrogatories filed to take your depositions, and the object; what was the object?

Answer. I stated that the object seemed to be, from the drift of the questions, to show that Mr. Herring had been bribed to betray Mr. Spencer in the trial at New Orleans.

Question. Be so good as to state what was the deportment and character of Mr. Herring on that trial, and what he did on that trial; the success of his efforts, and what sort of efforts he made?

Answer. Mr. Herring appeared to be the leading counsel for Spencer. He was very often consulted by him in court, and I thought that throughout the whole proceedings he displayed extraordinary zeal, and marked ability in the argument of the cause before the jury. He went to great lengths after the trial, by reading affidavits and making arguments before the court, in connexion with another attorney to get a continuance of the cause. I think there were three judicial days consumed on that subject after this trial. Throughout the whole of these proceedings Mr. Herring displayed as much zeal as I ever knew any attorney to display on behalf of his client, and I thought he argued the cause in a manner highly creditable to himself, as far as ability was concerned.

Question. Do you know whether he was bribed in any form or shape?

Answer. I do not know that he was; and, so far as I know, he was not.

Question. On page 110 of your testimony you are asked by Mr. Billinghamst, whether you had any correspondence with Judge Watrous touching the litigation about the lands, and you answer "not a word; the only letter I ever received from Judge Watrous was one stating that he had given a lien on the land for his share."

Witness. I want to make a fuller answer there. I mean to say that that was the only letter relating to the land that I remember ever to have received from Judge Watrous, because I have received a letter from him from Washington, in which he referred to another matter wholly unconnected with the purchase of land in this case.

Question. On page 121 you speak of information you got concerning Major Frow; did he state who gave him that information?

Answer. I cannot state certainly. He spoke of Mr. League as one party. I am not sure whether he stated that he got the information from him or from Judge Watrous; but I think that Mr. League was the party from whom he got the information. I will add that I think he also informed me that he had been conversing with Judge Watrous about the same land.

Question. You were asked, on page 126, whether when you met in consultation at Selma, he (referring to Judge Watrous) objected to exercising jurisdiction; do you recollect whether in the consultation you speak of anything was said in regard to Judge Watrous exercising any jurisdiction in relation to these lands?

Answer. No, sir; I cannot say that I do; my recollection as to dates and as to minor events is very imperfect. My impression as to what was said in regard to bringing suits may have arisen from what occurred after Mr. League returned from the north, and after the completion of the title to me, for the title was not considered as complete at first. It may have been on his return from the north. I think it very likely the question was then more fully talked over with

Mr. League, and such of my associates in Alabama as happened to be present on his return.

Question, (by Mr. Billinghamst.) Is Judge Watrous related to any of the parties, your associates in Alabama?

Answer. Not that I know of. I think not.

Question. What was the state of your trial with Spencer when you left New Orleans?

Answer. There had been one trial, in which the jury did not agree. After they were discharged a proposition was made to take up that same case again. On that being done, Mr. Herring and Mr. Walker, jointly acting for Mr. Spencer, moved for a continuance of the case, and they filed Mr. Spencer's affidavit, stating a variety of facts which he expected to be able to prove. That was opposed by my counsel, Judge Hughes. It was then argued for some three or four hours probably. The court adjourned before the termination of the argument. The matter was taken up next day, and argued again. Judge Hughes told the court, "I will admit that affidavit, and go to trial; I will admit all the evidence which that affidavit contains." On that being done, another affidavit was brought in, alleging other grounds for a continuance, and that was debated for considerable length, and I left before the matter was determined by the court. How much longer the argument was continued I cannot say except from hearsay, but I think there were two or three days of the court occupied before I left in debating the question of continuance, and making and reading affidavits.

Question. And you left before the decision was made?

Answer. I think I left before the court decided that matter.

Question. In one of your letters that was put in evidence, written by you either to League or Hughes, I think you spoke of a prejudice in Texas against eleven-league grants; who informed you of that prejudice, and when and how did you learn it?

Answer. I think I heard Mr. League speak of it; but at what time I cannot say. I had also understood, from common rumor, of persons who had been in Texas—and I drew my conclusion from that in part—that there was a great prejudice existing in Texas in the minds of a portion of the people, particularly of those who had settled on such lands, against such titles.

Question. Was that prejudice spoken of at the time of your negotiations at Selma?

Answer. I think not; not that I remember.

Question. Was it spoken of by League on his return from the north?

Answer. I am unable to state that. I think it probable that he spoke of it at that time; but I cannot say that I recollect he did. I was very strongly impressed with the belief, in 1851, when I wrote that letter, (eighteen months after I purchased the land,) that there was a prejudice prevailing in Texas in the minds of a portion of the people; and especially of those who occupied lands on the eleven-league grants against titles of that character.

Question. Do you know whether Judge Watrous is related to any of the parties you have sued on this land?

Answer. Not that I know of. I never heard of any relationship.

Question. Have you, or has Mr. League for you, or for himself, made compromises with any of the settlers?

Answer. Except a sale by Mr. League, made under my authority, be a compromise, we have not.

Question. What sale do you speak of?

Answer. We sold to three of the settlers, I think.

Question. What three?

Answer. I think there were two gentlemen by the name of Kellum, who had corresponded with me in relation to the matter, off and on, for two or three years—sometimes by themselves, and sometimes by their attorney, a gentleman by the name of Nolan. I authorized Mr. League to sell them the land at the price which they offered to pay for it.

Question. What price was that?

Answer. \$5 an acre.

Question. Had you sued them?

Answer. There were suits pending against those under whom they claimed. A number of those persons against whom suits had been commenced moved off the land, and other persons took their place. Very few of the parties against whom the suits were commenced remained on the land. I think they left, and other parties came in their places; and these Kellums, I think, were gentlemen in that condition who had not been sued themselves, but who occupied lands that had been in the possession of parties against whom suits had been commenced. These parties had left, and these gentlemen had taken possession of the lands.

Question. Have you been in negotiations for sale or compromise with other settlers, which negotiations have not been terminated?

Answer. There is one gentleman who made a proposition to me by letter to purchase the land, in which letter he fully recognized the strength of my title, and asked me to sell the land on as favorable terms as I could. Another gentleman by the name of Bedwell has also, since the termination of the suits at New Orleans, proposed to purchase his lands from me. He is one of those gentleman, I think, who came in after the suits were brought. I stated to Mr. Bedwell, or to his attorney, Mr. Herring, by letter, in substance, that I was in favor of letting Mr. Bedwell have the land on liberal terms; that he had acted fairly and gentlemanly with me, and that I felt a disposition to accommodate him. I believe there are no other propositions for compromises, except the last proposition made by Spencer himself. Mr. Spencer last fall, I think, addressed to me a letter, in which he stated his willingness to compromise. I never replied to that.

Witness desires to make the following corrections in his testimony of last Tuesday:

Page 72. After the word "land," add the words "and suit became necessary, as expected," so as to read: "provided we were to purchase the land, and suit became necessary, as expected."

Page 75. After the words "had made" on the 4th line, add the words "or had proposed and expected to make," so as to read: "he wrote to me informing me that he had made, or had proposed and expected to make, an agreement."

On same page, after the words "he had agreed," add the words "or expected to make an agreement."

Page 77. After the words "proceedings were dismissed," add the words "or would be dismissed."

Page 101. After the words "laws of Texas were," add the words "and had full confidence in him as my counsel."

At page 57, last line, the words "In my" should be "If my."

In referring again to my letter to Judge Hughes of 31st October, 1851, I am reminded of a fact which I wish to state.

In referring heretofore to the title papers exhibited by Mr. League at Selma in July, 1850, I spoke of a deed from Messrs. Menard and Williams, trustees of Mrs. St. John, to Mr. League. From a remark made in my letter just referred to, I am reminded that the deed in question had not been fully completed; that it had been executed only by one of the trustees at that time, and required the signature of the other to complete it. My recollection of this fact is further supported by reference to the obligation of Mr. League and Judge Watrous to me, attached to my testimony, page 46, in which it is provided that Mr. League should procure a conveyance from M. B. Menard and Nathaniel F. Williams, as trustees of Mrs. Sophia J. St. John, so as to complete his title. I feel sure he produced at Selma, in July, 1850, a deed to himself which had been executed by one of these trustees, and the obligation of Mr. League and Judge Watrous was required for the perfection of the title before the payment of the balance of the purchase money over and above the \$2,000 paid at the time of my purchase of Mr. League.

MONDAY, APRIL 12, 1858.

Question, (by Mr. Evans.) Since you gave your testimony on the first day of your examination, have you not had frequent conversation, on the subject of your testimony, with Judge Watrous and his counsel, Judge Hughes?

Answer. I have had repeated conversations with those gentlemen in relation to the subjects about which I have been testifying.

Question. Were not some of the explanations, qualifications, and alterations in your testimony made at the suggestion of Judge Watrous or Judge Hughes, or suggested by one or both of them?

Answer. I will state this: that in my testimony the first day I was examined about a number of matters which appeared to me to be immaterial, and I spoke without very much reflection, when my testimony came to be read over, I found I had not been as definite as I desired to be when I ascertained that some portions of my testimony might be regarded as material. On conversing with Judge Hughes and Judge Watrous, after my testimony was taken down, and on my attention being called to one or two matters as to which it was

desired that I should be more definite, I reflected on the subject, and I came to the conclusion that it was proper that I should speak more definitely. It was desired that I should be as definite as my recollection enable me to be. The matter I now refer to, particularly, is in regard to what transpired at Selma at the time of the contract; but the larger portion of the corrections were made by me without any suggestion from either of these gentlemen, merely for the purpose of rendering my testimony as accurate as practicable.

Question, (by Judge Watrous.) Have you made any part of your deposition or statements on suggestions made by me or Judge Hughes, or in consequence of anything either of us has said to you?

Answer. No, sir; except so far as my recollection was refreshed by the conversations.

After the foregoing testimony was read over, and on Mr. Lapsley being called upon to sign it, he was permitted to make the following statement:

I subscribe, with the explanations and qualification made after the body of the testimony was taken down, and with the statement that, in speaking of conversations, contents of letters, and such matters, I do not pretend to do more than state, substantially, my impressions and recollections, without undertaking to speak with perfect accuracy, which I could not do.

J. W. LAPSLEY.

MONDAY, *April* 12, 1858.

The following is appended as a copy of one of the letters produced by the witness:

NEW ORLEANS, *April* 13, 1855.

DEAR SIR: Yours of the 9th instant is before me, and I hasten a reply.

I will not leave here until your cases are tried, which, I think, will take place, at the furthest, by the middle of the first week of court. I cannot go home and return to attend to these cases, and must make an end of them while here. I do not know how it was that I made a mistake in the time of the holding the term. You had better be here, if you can, on the first day of the term, that is, if you wish to be present when the cases are to be tried, as my business at home renders it indispensable that I should not delay one moment unnecessarily, and I will press the cases to trial with the utmost vigor. I do not expect there will be any counsel here for the defendants.

As to the fee, of which you speak, we can talk about that when you arrive. There is one thing, however, to be recollected, that my expense are to be paid, and I have only money enough to last me about two days.

Respectfully, your obedient servant,

ROBERT HUGHES.

JOHN W. LAPSLEY, Esq.

EXAMINATION OF EDWIN SHEARER.

TUESDAY, APRIL 13, 1858.

EDWIN SHEARER sworn, and examined by Mr. Hughes.

Question. Did you ever live in Texas?

Answer. Yes.

Question. At what time?

Answer. I went there in April, 1850.

Question. What business, if any, were you engaged in while there?

Answer. I went there as deputy clerk, under Judge Love, clerk of the federal court.

Question. Were you there engaged in that capacity in the first part of the year 1851?

Answer. Yes, sir.

Question. Were you there when petitions were filed in the case of Lapsley against Spencer and others?

Answer. Yes.

Question. When was that?

Answer. As well as I recollect, that was in January, 1851.

Question. Did you ever hear anything said in court, by Judge Watrous or any body else, in regard to his interest in those suits; if you did, at what time?

Answer. I cannot say positively that I did hear Judge Watrous disclose his interest from the bench; but my impression is that he made known his interest in those suits, from the bench, at the spring term of 1851. If I recollect rightly, there were two or three terms. I think there was an April term of 1851, a May term of 1851, and a summer term commencing in June, 1851; and these suits were returnable to the April term of 1851. My impression is that the judge disclosed his interest. I knew from the first that the judge was interested. I issued four of these writs, as deputy clerk in the clerk's office, and I think I delivered them to the marshal for service. I do not know whether I wrote one, or more than one, of the copies of the petitions; but as well as I recollect, I wrote four of the writs and handed them in to the marshal's office. I recollect the time they were served and the return of the marshal. In writing these writs, and at the time I issued them, I know that this matter of Judge Watrous' interest in the lands was talked of in the office among ourselves. I talked of it freely. I never had any idea, nor had I any intimation from anybody, that this matter was not to be known. We talked of it ourselves—the deputy clerks, deputy marshals, and the members of the bar who came into the office; and I had no hesitation in speaking of it in presence of anybody any more than any other suit in court. My impression was, that it was a matter known amongst the bar that he was interested. I spoke of it freely, and it may be that I have connected my knowledge of it prior to the calling of the

suits in court, with his disclosure of his interest when the suits were called up, and when he was presiding as judge; but my impression is, that he made known his interest in these lands.

Question. At what time do you think that was done, if at all?

Answer. When the case was called and the docket read over.

Question. At the appearance term, or at any other term afterwards?

Answer. At the April term, 1851.

Question. Was there any concealment by anybody, within your knowledge at the time you speak of, in the interest of Judge Watrous?

Answer. No, sir; none that I ever heard of or knew of in any way.

Question. When you talk about your impression, do you speak of it as a recollection distinct or indistinct, or do you speak of it without having any recollection about it?

Answer. I have no distinct recollection which will authorize me to say that Judge Watrous did disclose his interest when the case was called. I cannot say that Judge Watrous, when the case was called, made known his interest in so many words; but my impression is, that when the docket was called, and when these cases were called up, he did make known his interest.

Question. Did you go to Alabama in July, 1850?

Answer. Yes; I returned to Selma in July, 1850.

Question. With whom did you go there?

Answer. With Judge Watrous and Mr. League.

Question. When did you leave Galveston?

Answer. I left Galveston on the 2d of July; we were at New Orleans on the 4th July, if I recollect right.

Question. Were you in Selma, Alabama, with Judge Watrous and Mr. League, when an agreement was executed between them and Mr. Lapsley and others, in relation to the interests in the Tomas de La Vega grants?

Answer. Yes, sir.

Question. Where was the instrument or writing executed?

Answer. At Major Frow's room.

Question. Will you state all you know in regard to when Judge Watrous went to that room on the day in which these papers were executed, and who went with him, and all the circumstances connected with his going there, and his remaining there up to the time of his executing the papers?

Answer. Judge Watrous and Mr. League and I reached Selma on the 9th of July, I think. I was anxious to be there at that time, because I was required there. We arrived on Monday morning, the 9th of July. I saw the judge during the day from time to time, and I did not go with him up the street that I recollect; but on Tuesday morning, about 10 o'clock, I called at the hotel that he was stopping at, and we walked up the street together. He told me he was going up to Major Frow's room when we set out, and I told him I was going up the street also. We went along, stopping probably here and there; I recollect we stopped at one point where we were detained a moment,

and passed out together ; I met an acquaintance in the street, and the judge passed on to Major Frow's room, about fifty yards from there. While I was standing talking to my friend, Mr. Plattenburg came along, one of the parties interested in this suit, and I asked him if he had met Judge Watrous ; he said he had'nt seen him, and I told him that he was in Major Frow's room, and asked him to go with me up there. I knew he wanted to see the judge, for I had seen Mr. Plattenburg the day before, and he told me he would like to see the judge. Plattenburg and I went to Mr. Frow's room together ; Major Frow, Mr. League, and, I think, Mr. Lapsley, were in there when I went in ; whether Mr. Lapsley was in there, or came in directly afterwards, I do not now recollect. Plattenburg spoke with the judge, and Plattenburg and the judge and I took a seat on the sofa in Frow's room. He and Plattenburg were talking about emigration to Texas and such things ; Plattenburg was asking him sundry questions about Texas, about the settlement of that country, and a general conversation was carried on, such as would be likely to be with men who were intimately acquainted and who had been separated for a long time. I was sitting by, and in the meantime Frow and League and Lapsley were at the table talking and fixing up an agreement which League was to sign ; they went on fixing and arranging their papers and talking about the matter ; it was read over by League and Lapsley, and League objected to sign it ; Lapsley insisted on his signing that identical paper ; what the paper was I do not know ; I knew it was an agreement, but what were its terms and what were required in it, I do not know ; I did not hear it read myself ; League refused to sign it. Well, Mr. Lapsley insisted on his signing that paper in the way in which the agreement was set forth, whatever that was. Whether they appealed to Judge Watrous, or whether Lapsley mentioned to him that he insisted on League's signing that particular paper, or whether the judge asked what the difficulty was, I do not know ; but the judge interfered. I recollect that he told League to sign it, and League signed it ; this was getting on towards 12 o'clock. League got up and remarked that he was going to Baltimore by the steamer, which would be along after dinner, and that he must go then to the hotel and make arrangements to get on board. He left then ; Lapsley also left, stating that he was busy and was going up to his office, and the judge and Plattenburg, and Frow and I, sat there perhaps half an hour or more, engaged in general conversation. Then we separated ; the judge and I went to the hotel, and I asked him when he was going to leave the city ; he said he would leave soon after dinner, to go a certain distance on his way to Montevallo. After dinner, about 3 o'clock, the judge started from the hotel, and got up as far as my mother's, on the road leading out of the city ; there came on a violent rain storm, and he took shelter at my mother's house ; after the rain was over he concluded that he could not reach the stand that night, and that he would start again early in the morning ; after tea I went down with him to the hotel, and remained there in conversation with certain friends of the judge, gentlemen who had called to see him, and some ladies who were living in the hotel. I re-

mained there in the parlor till it was time to retire, and then I went home. The next morning I came, after breakfast, to the hotel to see the judge; but he had already gone. I did not see him any more that summer.

Question. At the time of the conversation you speak of, between him and Mr. Plattenburg, had they been intimate friends?

Answer. Yes, for many years.

Question. As to the conversation referred to, between them, was it in regard to what was going on at the table, or was it in regard to other matters?

Answer. It was a general conversation in regard to any thing that came up. I did not hear any allusion to the subject matter of Frow, Lapsley and League.

Question. Did Judge Watrous pay any particular attention to what was going on between the parties at the table?

Answer. I did not see that he did.

Question. Did you hear Mr. Lapsley or anybody else, during the time that this thing was going on at the table, and while Judge Watrous and Mr. Plattenburg were conversing together, say anything to Judge Watrous about the commencement of the suits in regard to the claim they were negotiating about?

Answer. I did not. I have no recollection of anything being said on that subject.

Question. Did you hear anything of it up to the time the writing was signed?

Answer. No, sir.

Question. Did you hear anything of it afterwards, before the parties separated?

Answer. I did not. Lapsley and League left the room; and Frow and Plattenburg, and Judge Hughes and myself were left behind; and I did not hear the subject brought up at all.

Cross-examined by Mr. Evans.

Question. When do I understand you to say you first visited Texas?

Answer. In April, 1850.

Question. What was your object in going there?

Answer. I went there as deputy clerk to the federal court.

Question. Who procured you that situation?

Answer. Judge Watrous. I recollect in October, 1849, I had returned from Mississippi. I had been out there with a view of locating there, and had made arrangements for that purpose. At that time I did not know where Judge Watrous was. I knew he was the judge of the federal court of Texas. I had seen Judge Watrous only two or three times for ten years. He had been in the habit of stopping a few days at Selma, as he passed through. I recollect that in 1846, he was sick there for several months. I had known Judge Watrous in early life, while I was a boy. He went to Texas, and I had lost sight of him for many years; but for four or five years prior to 1849 I had seen him, probably, almost every time he came to

Selma. He was in the habit of staying there only a few days, and then going to Montevallo, where his mother and brothers resided. After I had come back from Mississippi, he was at the hotel in Selma, on his return from Galveston. He sat down and talked with me, and I asked him if he knew of any situation in Texas where I could go and make a living. I recollect telling him that the object of my visit to Mississippi was to locate there and practice law, but that I didn't want to go back, and would prefer to go to Texas. He said he did not know of any place where he could advise me to locate; but he said "this" "Judge Love, the clerk of the federal court, I have no doubt would employ you as a deputy; he has a deputy or two there; but I do not know but you might get a situation. But, said he, do not go to Texas now, on this assurance; but wait till I write to you; let me consult Judge Love, and ask him for a situation for you." I waited there, and Judge Watrous wrote to me, stating that Judge Love would give me a situation. I went to Texas, and saw Judge Love, and he had not then determined the matter, whether, or not, I should remain as a clerk. I remained there ten days, and did not get any situation in the office. I had no conversation with Judge Watrous concerning the matter. I only came on the receipt of his letter. I went to Judge Love, and he said to me: "I cannot give you a situation that will pay you; but I will employ you as deputy clerk, and pay you a nominal salary until I can see what I can do for you." I told him I would remain on that.

Question. How long did you remain there?

Answer. I got to Galveston probably about the 8th of April, and remained there till the 2d of July, and then I left Galveston for Alabama, in company with Judge Watrous and Mr. League.

Question. How long were you absent before you returned to Texas?

Answer. I left Galveston about the 2d of July, and reached Galveston again on the 5th of December of the same year.

Question. Did you witness the agreement between the parties in Major Frow's office in July, 1850?

Answer. I do not recollect whether I signed it or not, but I witnessed the signing of an agreement there, at the time I speak of; I witnessed that agreement between Lapsley and League, and I think that that must have been the only agreement entered into.

Question. Did you sign as a witness any instrument in writing?

Answer. I do not recollect whether I did or not.

Question. Are you not brother-in-law of Mr. Price, one of the parties?

Answer. Yes, sir.

Question. Were not the deeds and title papers connected with that transaction transmitted by Mr. Lapsley through you to Texas?

Answer. If they were, I did not know it. Mr. Lapsley may have sent some papers by me, enveloped, but I never knew what they were.

Question. You mean on your return in the fall of that year?

Answer. Yes; I did not know whether they were title papers or bank bills. I left Selma in the latter end of the last week of No-

vember; we were longer going to Texas than we had been in the habit of; I think I reached Galveston on the 4th or 5th of December.

Question. And how long did you remain?

Answer. I went to the federal court again, as deputy clerk, and I remained in Galveston, till the first of June, 1851, I think. I left there the 1st of June, and went down to the Brazos, on some business for Judge Watrous, and returned. When I went again on some business down on the Brazos, I think I gave Judge Love to understand that I would separate myself from the clerk's office, as I was going to attend to some business out of Galveston; I separated from the clerk's office about that time. I came back again and lived in Galveston, but had nothing to do with the federal court. I think I went to Corpus Christi, stayed there a month and returned, but still I had nothing to do with the federal court. In September of that same year I went to Corpus Christi with Judge Watrous, and he and I remained at Corpus Christi about three weeks or a month. When we left Galveston to go to Corpus Christi, I intended to remain at Corpus Christi, and did not intend then to return to Galveston. I went with Judge Watrous there, and from there he went to Austin to organize the federal court. I went and lived at Corpus Christi a certain time, and at a certain date went back to Galveston. I went to Corpus Christi in October, 1851, and stayed there thirteen months.

Question. And then where did you go?

Answer. I came back to Galveston.

Question. How long did you remain in Galveston?

Answer. I came back in October, 1852, and stayed there till March, 1853, and then I came here to Washington city, to see Judge Watrous.

Question. How long did you remain here?

Answer. I stayed here two weeks; when I went back to Galveston in the fall of 1852, I went back to the clerk's office, and I told Judge Love that I would be glad to have some employment. I then went into the clerk's office, and from the time I came back in October, 1852, till March, 1853, I was connected with the clerk's office.

Question. You say you remained two weeks here?

Answer. Yes.

Question. Where did you go to from here?

Answer. I went with Judge Watrous down the Mississippi river to New Orleans; he was in ill health and feeble.

Question. Where did you go to then?

Answer. To Galveston. I got to New Orleans on the 1st of April; I had stayed here two weeks, and we were five or six days going to New Orleans; we stayed there twenty-eight days, and then I went to Galveston.

Question. You remained in Galveston how long?

Answer. I left New Orleans in May, 1853, went to Galveston and remained there till November, 1853.

Question. What was your employment?

Answer. In the clerk's office. When I went back to Galveston in

May, 1853, I went back into the clerk's office, and was one of the deputies in the clerk's office during the term of the court.

Question. And after that?

Answer. Well, in November, 1853, I came to Alabama; I remained in Alabama till the 14th of January, 1854, and then went back to Galveston again.

Question. Where have you remained since then?

Answer. I went back to Galveston on the 14th of January, 1854, remained there till November, 1854, and came back to Alabama.

Question. And then?

Answer. And since then I have remained in Alabama, except for three or four months of the time that I have been in Mississippi.

Question. What was your employment the last time in Galveston?

Answer. When I went back to Galveston in January, 1854, I went into the clerk's office again. When I left Galveston, coming backward and forward on business, I always, when I returned, went back to the office, so that even while I was absent I did not consider that my connexion with the clerk's office was severed.

Question. Do I understand that you then remained in the clerk's office till you finally left in 1854?

Answer. Not uninterruptedly. I told you that in 1851 I severed my connexion with the clerk's office.

Question. In 1853 and in 1854?

Answer. I was once in the custom-house.

Question. How long were you in the custom-house?

Answer. Just thirty days. That was in Februry, 1853.

Question. State the manner of obtaining juries in the federal court at Galveston.

Answer. I never knew any difference between that and the usual course. A certain number of men are summoned, who appear at the federal court at the time appointed.

Question, (by the chairman.) Have you abandoned your residence in Texas?

Answer. I have never abandoned it. I have never voted out of the State of Texas, and, although I had remained in Alabama, I always had regarded Texas as my home. I have been detained in Alabama, but I never abandoned the idea of living in Texas, and never have given up my citizenship there.

Question, (by Mr. Evans.) Who makes out the jury list at Galveston?

Answer. I do not recollect.

Question. Was it not made out in the clerk's office?

Answer. I never had the doing of it, and cannot swear whether it was or not.

Question. Was it not done while you were in the office?

Answer. I have no recollection of ever having seen it done at the clerk's office.

Question. Were you not frequently a juror?

Answer. I was sometimes a juror.

Question, (by Mr. Billingham.) On how many different panels?

Answer. I think I served in 1851. I may have been a juror two or three times. I cannot say exactly when or how many times I served on the jury in the federal court.

Question. Were you a freeholder in Texas at that time?

Answer. No, sir.

Question, (by Mr. Evans.) You were a juror in the case of Ufford vs. Dykes?

Answer. Yes.

Question. Who were the other jurors in that case?

Answer. I do not recollect.

Question. Can you recollect some of them?

Answer. I do not recollect now who were jurors with me in that case.

Question, (by Mr. Hughes.) Did you ever hear any complaint among the lawyers or anybody else interested in the courts as to the manner of drawing or obtaining a jury.

Question overruled.

Question. You spoke of the time you went to Corpus Christi, and I understood you to say that you stayed there thirteen months?

Answer. Yes, sir; and I went there a second time with a view to stay there.

Question. When was it you went there that you stayed the thirteen months?

Answer. As well as I recollect, it was in the middle of October, 1851.

Question. That was after the spring term?

Answer. Oh, yes; it was either in the middle of September or October. I was separated from the clerks' office for a time. When I came back in the fall of 1852, I was told to go back into the office.

Question, (by Mr. Billingham.) Are you a lawyer by profession?

Answer. I have never practiced. I have studied law, and have been admitted in the supreme court in the State of Alabama, and also of Texas.

Question, (by Mr. Chapman.) When did you first receive information that your testimony would be required here?

Answer. When I came to Washington city I found Judge Watrous here. I never had any conversation with Judge Watrous, or Judge Hughes, or any of the parties. I did not know whether Judge Watrous was here or not.

Question. Did you receive any information before coming to Washington that your testimony was desired?

Answer. No, sir; I had no such intimation. I had not heard from Judge Watrous for twelve or fourteen months.

Question. Did you hear it from anybody else?

Answer. From nobody connected with the bar of Texas, or State of Texas. I came here without knowing that Judge Watrous was in the city, and without being summoned or notified to attend.

Question, (by Mr. Hughes.) Did you get any information from anybody before you came here?

Answer. No, sir; no notice whatever; I did not even know that

the trial was coming on. I knew that Judge Watrous had come here with that view ; but whether the trial was closed up, and he gone, I did not know.

Question, (by the chairman.) Does the judge of the district court of Texas call over the cases on the appearance docket at the appearance term of the cause?

Answer. I think he does.

Question. You spoke of going to Frow's office with Judge Watrous on one occasion in Selma. Was that the only time you saw the parties together in Selma on the occasion of that visit?

Answer. Yes, sir ; the only time I can recollect.

Question. You came to Alabama when?

Answer. I said I came to Alabama in November, 1853, and went back to Galveston on the 14th of January, 1854. In November, 1854, I came back to Alabama from Galveston.

Question. Well, have you lived in Texas since that time?

Answer. I have not been in the State of Texas since November, 1854.

THURSDAY, APRIL 15, 1858.

Question, (by Mr. Evans.) Were you a householder in Texas at any time during your residence there?

Answer. No, sir ; I never owned house or lands there.

Question, (by Mr. Billingham.) Were you a juror in the Ufford & Dykes case on more than one trial?

Answer. I do not recollect positively whether I was or not. I recollect that they made me foreman. Whether or not I was a juror afterwards I do not know. I think there was more than one trial in that case. I do not know whether Mr. Haviland was on the jury with me or not. My recollection is, that the only time I was a juror in that case was on the occasion when I was foreman.

EDWIN SHEARER.

EXAMINATION OF SIMON MUSSINA.

WEDNESDAY, APRIL 28, 1858.

SIMON MUSSINA sworn.

Question, (by Mr. Clark.) Do you know anything, of your own knowledge, relative to the charge made by Jacob Mussina against Judge Watrous?

Answer. I do not recollect anything that I know, except it may be that I have been present at some of the rulings of the court, or some of the transactions connected with this case in that way.

Question. Do you speak of any other rulings than those which appear upon the record?

Answer. I allude to the proceedings in the chancery case particularly. Perhaps if I were to be examined on those matters things might occur to me.

Question. You are a brother of Jacob Mussina?

Answer. I am.

Question. You are familiar with the charge he makes impeaching the official conduct of Judge Watrous?

Answer. I have been the active party in this matter. The business has been done chiefly under my charge.

Question. Will you say now whether you know, of your own knowledge, any fact touching that charge other than so far as it may relate to the rulings upon questions of law and evidence which appear upon the record?

Answer. I cannot call to mind any fact. I can say that I have no personal knowledge that I recollect.

Question. In relation to the rulings of which you speak, do you speak of rulings which were improper, and of such a character as to imply corruption?

Answer. Yes, sir; rulings which I conceive to be improper.

Question. State them briefly.

Answer. I have memoranda from which I could refresh my memory but I have them not with me at present. I should like to have the privilege of having those papers, that I might refer to them. I cannot do so now. I did not expect to be examined this morning.

Question. You have read over and over again the charges against Judge Watrous made in the memorial of your brother?

Answer. I have.

Question. And you have no knowledge of your own of any of the matters except in relation to those rulings?

Answer. I have memoranda. I drew from them the memorial with the aid of counsel. I blocked that memorial out from them with the aid of counsel.

Question. Did you draw Spencer's memorial?

Answer. I drew it partly—the chief part, I expect.

Question, (by Mr. Craige.) Did you ever state to a member of this committee, that after the case of *Lapsley vs. Spencer* and others had been removed to Austin, Judge Watrous directed the order for the removal to be made *nunc pro tunc*, as if it had been made at Galveston?

Answer. I do not recollect of having made any such statement. I have made statements to the committee upon documents which I have in my possession.

Question. Did you hear Judge Watrous at Galveston direct the order to be made *nunc pro tunc* for the removal of this case?

Answer. I was not at Galveston at the time.

Question. I mean at Austin.

Answer. I was not at Austin during the hearing of these cases—not when they were called.

Question. Were you at Galveston at the spring term of 1851?

Answer. I do not recollect whether I was or not.

Question. Were you there at the June term?

Answer. I do not recollect.

Question. Were you there at the January term of 1852?

Answer. I was not.

Question. You know nothing, of your own knowledge, whether Judge Watrous disclosed his interest at a subsequent term?

Answer. Not from my own knowledge. You mean the Spencer cases?

Question. I do. Did you have any talk with Mr. Spencer in regard to the allegation that the cases had been kept at Galveston for three years in order to force a compromise?

Answer. I had general conversations with Mr. Spencer on the subject of his suits, but I do not recollect of having any conversation with him on that particular point.

Question. Did you have any conversation with regard to what he would swear before the committee on the subject?

Answer. I do not recollect. I conversed with Mr. Spencer on the subject of his testimony; I handed him the printed book and advised him to look over it in order to refresh his memory as to dates. In his examination he was made to say that Mr. Seguin's testimony was taken. After the examination was over I asked him if he noticed it; he said that he did not; he corrected it. I called his attention to some matters of that kind, dates, &c.

Question. What time did you and your brother obtain title from Tomas de la Vega for the tract of land which Lapsley claimed?

Answer. We did not obtain it from Tomas de la Vega.

Question. What time did you get your La Vega title?

Answer. We never got a title from La Vega for that tract of land. I received from La Vega a power of attorney to act for him, and under a contract to have one-fourth for my services in the matter. I have the power of attorney; if I had it here I could refer to the date; I think that was some time in 1856.

Question. You obtained that power of attorney after Lapsley had commenced his suits against Spencer and others for the land?

Answer. I obtained that after the suit against Spencer had been decided by the court in New Orleans. I have the power of attorney, and by referring to it can give the date exactly, comparing it with the date in the deposition.

Question. You think that you obtained it before he was examined as a witness?

Answer. I am not certain, but I have copies of both documents, and by comparing them I can tell the date exactly.

Question, (by Mr. Ready.) Do you mean to say that you have no personal knowledge in regard to any of the charges, either in the memorial of Jacob Mussina, or Spencer's memorial?

Answer. Not of the transactions further than what appeared in the courts and when I was present. I was not in Texas when most of

these matters occurred. When I come to examine the papers something may occur to my mind.

THURSDAY, APRIL 29, 1858.

WITNESS. I will state, after an examination of the record, that I now remember that I was present at the terms of the federal court in 1850 and April, 1851.

Question, (by Mr. Billingham.) Have you any papers in your possession showing any *nunc pro tunc* orders entered at Austin, in the Lapsley cases?

Answer. I do not recollect of having such an order, though I may have one. I will examine the records for that; I think that was my answer on yesterday, that I might, amongst the numerous records I have, have an order of that kind. I have some recollection of a *nunc pro tunc* order of some kind.

Question. Have you the documents with you?

Answer. I have some of them.

Question. Can you refer to it?

Answer. I do not find such an order, made at Austin, amongst the papers I have here. I have an order amongst my papers.

Question. Have you a transcript from the clerk at Austin?

Answer. Not from Austin.

Question. Have you a transcript from the clerk at New Orleans, of orders entered at Austin, in the Lapsley cases?

Answer. I have it, and can produce it; but I have it not here with me.

Question, (by Mr. Clark.) Can you now state any fact within your own knowledge, proving, or tending to prove any of the charges stated in the Mussina memorial?

Answer. I drew the memorial, or blocked it out, from a careful examination of the papers and records in the different cases.

Question. You know no fact of your own knowledge, except such as appears in the record?

Answer. I know none that I can now call to my mind.

Question. Can you state any fact within your own knowledge, establishing, or tending to establish the charges contained in the Spencer memorial?

Answer. I make the same answer to this that I have to the other question.

Question, (by Mr. Craige.) You say that you were at the court at Galveston, April, 1851?

Answer. Yes, sir.

Question. Did you hear Judge Watrous disclose his interest in the La Vega grant at that time, or in the Lapsley suits?

Answer. I did not.

Question. Did you hear it at that court?

Answer. I did not. I never heard of Judge Watrous' interest in that matter; that is the admission of his interest, until I heard of the removal of the cases to New Orleans.

Question. When was that?

Answer. I think that was in 1855.

Question. You say that you never heard of Judge Watrous' interest in that land until that time?

Answer. I heard of rumors; but I never heard of the admission of his interest. I heard rumors of his being interested in lands generally, and I think in that land. At that term of the court I am satisfied that nothing was said.

Question, (by Mr. Billinghamst.) Did you know anything of this tract of land at that term of the court; had your attention in any way been called to it?

Answer. I do not recollect that it was.

Question. Did you know Spencer, or did you hear of such a man at that time?

Answer. I have an indistinct recollection, but not sufficient to enable me to answer. I met Mr. Spencer at Galveston, but whether at that term or a subsequent one I cannot call to mind.

Question. Did you know of these Lapsley cases being in court at that time?

Answer. I cannot now recollect.

Question, (by Mr. Clark.) Has an appeal been perfected to the Supreme Court of the United States, from the decision of Judge Watrous, in your brothers' case?

Answer. An appeal has not been perfected.

Question, (by Mr. Ready.) Have you the power of attorney from Tomas de la Vega, to which you referred yesterday, and what is the date of it?

Answer. I have it here with me. It is dated the 16th of October, 1856. The last certificate is the 18th November, 1856.

Cross-examination by Hon. Caleb Cushing for Judge Watrous.

Question. Are you the agent of Patrick C. Shannon, and any other party, defendants in the case of Cavazos against Shannon and others?

Answer. I was the agent of Shannon so far as attending to the appeal of the case to the Supreme Court of the United States.

Question. When did you become that agent?

Answer. About the time of the application for the appeal.

Question. When was that application made?

Answer. I do not recollect. I have the application and can refer to it. I do not recollect the exact time.

Question. Was it in the year 1852?

Answer. No.

Question. 1853?

Answer. It was as late as 1854 or 1855. I do not recollect the date exactly.

Question. After looking at the paper will you state when it was you first applied for an appeal?

Answer. About July, 1856.

Question. Where did the court sit at that time?

Answer. Galveston.

Question. Did you apply in open court or at chambers?

Answer. It was applied for by counsel. I did not apply.

Question. What counsel applied in July, 1856?

Answer. P. C. Tucker, jr., esq.

Question. Do you state of your own knowledge that he applied?

Answer. He was written to on the subject.

Question. By whom?

Answer. By Mr. Shannon.

Question. Do you state of your own knowledge that Mr. Shannon wrote to him?

Answer. I saw the letter written by Mr. Shannon, and if my recollection serves me right, I wrote to Mr. Tucker myself to attend to the matter for Mr. Shannon, and became responsible for the fee.

Question. Do you know that Mr. Tucker made the application in July term, 1856?

Answer. I know it from seeing it in the record, and have been informed that he did make it by Mr. Tucker himself.

Question. You saw it in the record?

Answer. Yes, sir.

Question. You saw that an entry was made July, 1856?

Answer. Yes, sir.

Question. Did you retain counsel in December, 1856, for the purpose of making application to the Supreme Court of the United States?

Answer. I had counsel at Galveston to attend to all my matters connected with that suit and all others.

Question. Was an application made for the entry of the appeal to Judge Watrous in chambers or in term in January, 1857, within your knowledge?

Answer. I have knowledge based upon the affidavit of my counsel.

Question. Can you state of your own knowledge that that application was made to Judge Watrous either in term or chambers for the appeal in January, 1857?

Answer. No, sir.

S. MUSSINA.

EXAMINATION OF J. A. H. CLEVELAND.

WEDNESDAY, APRIL 28, 1858.

J. A. H. CLEVELAND sworn.

Question, (by Mr. Clark.) Where do you reside?

Answer. Galveston, Texas.

Question. What is your business?

Answer. I am the deputy marshal.

Question. Do you know Judge Watrous?

Answer. Very well.

Question. How long have you known him?

Answer. I have known Judge Watrous since 1842. I have been an officer of the court since 1851. I have been in attendance on the courts since that time.

Question. Was there a term of the district court, presided over by Judge Watrous, held in January, 1852?

Answer. Yes, sir.

Question. Was it a regular term?

Answer. It was.

Question. As previously advertised, or a term as provided by law?

Answer. It was a legal term. I was acting deputy in court at the time.

Question. Had you any occasion to make application to Judge Watrous for the purpose of ascertaining whether he would hold that term, or whether there would be a failure of court?

Answer. I did.

Question. When?

Answer. In time to confer with the Secretary of the Interior.

Question. Did you make it in open court?

Answer. No, sir; out of court.

Question. Privately?

Answer. I applied to the judge in order to know how much money I should want to pay expenses?

Question. What did he tell you?

Answer. He told me that a term of the court would be held, but that I need not execute the writ of venire—he did not think any jury cases would be tried.

Question. Did you communicate that to the bar?

Answer. I spoke of it generally to those who spoke to me.

Question. That the term would be held?

Answer. Yes, sir.

Question. Were inquiries made of you?

Answer. Frequently.

Question. Do you recollect any of the persons; did Judge Hughes know it?

Answer. I do not know whether Judge Hughes asked me. It is a great while ago.

Question. Do you know whether Mr. Spencer knew it?

Answer. I do not.

Question. So far as you know, it was the general understanding?

Answer. It was; that there would be a term of the court held.

Question. Were failures in that court frequent?

Answer. No, sir; Judge Watrous was punctual, when not prevented from holding his courts.

Question. You mean to say that, so far as you know, there was no secret about it?

Answer. None at all.

Question. Did Judge Watrous positively tell you that he would hold the court?

Answer. He told me that he would hold the court. I asked him, to know how much money I should draw for. He told me to draw for expenses independent of those attending jury trials. He said that if we needed a jury, one could be summoned at the time.

Question. Do you recollect of certain suits upon the calendar in which Lapsley was plaintiff?

Answer. Very well.

Question. Have you any of the records or calendars with you?

Answer. I have not.

Question. You have none of the papers of the court with you?

Answer. No, sir, I have not. I have not charge of them.

Question. Do you recollect the filing of those suits?

Answer. The suits were filed in January, 1851, and the writs were executed on some of the defendants on the 17th and 18th days of February thereafter. I think that Mr. Spencer was one of the parties served.

Question. How many suits were filed in January, 1851?

Answer. Between ten and fifteen; probably more. There are a number of defendants in the same case—Lapsley against a number of them.

Question. You do not mean that there were several defendants in each case, but that there were several defendants?

Answer. Yes, sir.

Question. You say ten or fifteen?

Answer. I cannot state the number positively. There were several defendants.

Question. Do those suits relate to tracts of land?

Answer. Yes, sir.

Question. Was it called the La Vega tract?

Answer. Yes, sir, I think so. I am not positive as to the name. We always called them the Lapsley cases.

Question. When was the first term held after those writs were served?

Answer. The first Monday in April, 1851.

Question. Do you know whether there was any appearance by counsel?

Answer. Yes, sir; I think there was. I think Mr. Swett represented Mr. Spencer.

THURSDAY, APRIL 29, 1858.

Continuation of examination of J. A. Cleveland.

Question, (by Mr. Clark.) You stated yesterday, touching the Lapsley cases, that the writs were served about the 17th or 18th of February, 1851, and that the cases were on the calendar in April, 1851?

Answer. Yes, sir; the first term thereafter.

Question. That was April, 1851?

Answer. Yes.

Question. Had issue been joined in the cases at that time?

Answer. I think an answer had been filed in some of them. I think Spencer's answer had been filed.

Question. Was the calendar to which you refer a trial calendar, or a mere docket of cases?

Answer. On the minutes of the court nothing at all appears.

Question. You spoke of a calendar?

Answer. I mean the trial docket. The cases were docketed, and stood on the trial docket. That of James Marlin stood first.

Question. When was the next term of that court in Galveston?

Answer. The next term was the May term, 1851. The April term ran into the May term, 1851.

Question. When was the next term?

Answer. The January term of 1852.

Question. How long did these cases remain on the docket from term to term?

Answer. They were on the docket from the April term of 1851, until a little while after the January term, 1852, when they were transferred to Austin.

Question. About what time were they transferred?

Answer. I do not recollect the date; very early after January, 1852.

Question. Were you present in open court when anything was said or done in reference to any of these cases?

Answer. I was a bailiff at the April and May terms of the court, appointed for the particular purpose of attending upon the judge, handing him papers, books, or anything else he needed, and I was constantly there in court at all times when it was in session. At the April term of 1851 a portion of the writs—some five or six, I think—had been executed. The cases all stood upon the trial docket; the first case called was that of John W. Lapsley against James Marlin; the writ in that case was not served, and the fact was so stated to the judge.

Question. Who stated that fact; who appeared as counsel to state that fact?

Answer. The marshal stated the fact that the writ had not been executed. Judge Watrous immediately stopped there and disclosed his interest.

Question. What did he say?

Answer. He stated that parties with whom he was connected, by blood or something, had such an interest in the suits as would render it improper for him to preside.

Question. I want you to recollect, as accurately as you can, what he said in regard to his disqualification; give the substance, if you cannot give the words.

Answer. I do not know that I can; but that is what he stated.

Question. He said he was disqualified?

Answer. Yes.

Question. And he put the disqualification on the ground of relationship by blood or marriage?

Answer. I think so. I know that he disclosed his interest.

Question. An interest is one thing, and a disqualification another ; what interest did he disclose ?

Answer. I think he stated that he was related to parties by blood who had an interest.

Question. Did you understand from Judge Watrous at the time, that, beyond the disqualification resulting from relationship by marriage or blood, he had a pecuniary interest which disqualified him ?

Answer. I did.

Question. From what he stated ?

Answer. Yes, sir.

Question. Can you not give his language ?

Answer. I cannot.

Question. You perceive the distinction between disqualification resulting from pecuniary interest and that resulting from relationship ?

Answer. Yes, sir.

Question. And you got the impression that he was pecuniarily interested—do you mean to say that ?

Answer. I got the impression that it was his relationship.

Question. And you did not get the impression that he was pecuniarily interested ? At the time Judge Watrous referred to this matter, was the impression on your mind that he was disqualified from making any order in the case because of relationship to the parties by blood or marriage, or because he had a pecuniary interest in the suits ?

Answer. I think it was his relationship by blood or marriage.

Question. But you do not recollect what Judge Watrous said ?

Answer. I do not recollect his precise language ; but I know he was very emphatic about it, and refused to make any order.

Question. Did he say, in words or substance, that he had a pecuniary interest in the subject in issue ?

Answer. I do not recollect, positively, whether he did or not.

Question. Who was present when he said that he was connected in any way with these suits or proceedings ?

Answer. I recollect that Mr. Swett was. Swett & Howard were the counsel for Spencer. Swett was the leading counsel, and was in court, and managed the cases. Swett was present and Judge Hughes was present.

Question. Who else ?

Answer. I do not recollect particularly.

Question. Do you recollect how many different attorneys appeared in these different suits, besides the two you have spoken of ?

Answer. I think Mr. Merriman appeared for one of them. I know he was spoken of to preside, and objected on the ground that he was employed as counsel.

Question. Do you recollect any other counsel for any of the defendants being in court at the time Judge Watrous made the declaration to which you refer ?

Answer. John B. Jones was in court, but I do not know that he was counsel for any of them.

Question. Was the bar in attendance?

Answer. I think so; the bar was generally in attendance.

Question. But you recollect that counsel for the defendants in the suit called was present?

Answer. No; not in the suit called; at that time the writ was not served; but Judge Watrous made such a disclosure there as that I do not think the Spencer case was ever touched at all; because his action made everything else unnecessary, for he stated distinctly that his interest was the same in all the Lapsley cases.

Question. Was an application made at that time by any of the counsel for any order disposing of the cases—for their removal?

Answer. No, sir; I don't think there was.

Question. Or for their continuance—or any application for the disposal of the cases in any way?

Answer. No, sir; I do not think there was. I am pretty sure of it.

Question. What disposition was made of the calendar—were the suits erased from them, or did they stand there?

Answer. They stood upon the calendar as continued, because Judge Watrous could not preside, and the counsel had not agreed upon any counsel to preside in his place.

Question. Who suggested that some counsel should preside?

Answer. I think the attorneys engaged Judge Hughes and Mr. Swett. They spoke of John B. Jones and Mr. Merriman.

Question. Was that in open court?

Answer. Yes.

Question. Then, in the April term it was suggested in open court, in the presence of all these parties, that some counsel should preside?

Answer. Yes, sir; it was in preference to sending them to some other district.

Question. And they could not agree?

Answer. They did not agree at that time.

Question. Well, at the next term, in May?

Answer. They stood precisely in the same way.

Question. Was anything said or done in open court in your presence touching the cases or their disposal, in May?

Answer. No; there was no order made at all, unless it appeared on the minutes that one of the cases was continued, but I do not remember which of the cases it was.

Question. Confine yourself to what you heard said, or what you saw done in the May term—were the cases called?

Answer. I do not think they were; they were spoken of.

Question. Who spoke of them?

Answer. The attorneys.

Question. In open court?

Answer. Yes.

Question. Do you recollect the circumstances?

Answer. I am pretty certain the cases were not called regularly; they may have been spoken of casually by the attorneys.

Question. Was there any suggestion made in open court touching the proposition to call another lawyer to preside in the matter?

Answer. I think there was some such talk between Judge Swett and Judge Hughes about it.

Question. Not in open court?

Answer. Yes; the judge was on the bench.

Question. Could you hear their talk?

Answer. Yes.

Question. Could the judge hear it?

Answer. I suppose so; I was standing by him.

Question. What did Judge Watrous say at the May term on that subject, if he said anything?

Answer. I do not recollect positively.

Question. Then you do not recollect that Judge Watrous said anything on the subject at the May term?

Answer. I do not recollect positively that he did.

Question. Was there any motion made in those cases in open court in your presence?

Answer. Not any.

Question. And you do not recollect that at the May term anything was said or done by Judge Watrous touching the subject?

Answer. Nothing at all. I am pretty positive that he always refused to make orders; I know he did.

Question. But you do not recollect he did?

Answer. I do not recollect positively.

Question. Come on to the next term, in January, 1852?

Answer. At the January term, 1852, Mr. Swett had left for California.

Question, (by the chairman.) Were the cases called at the May term?

Answer. I think not.

Question, (by Mr. Billingham.) How long did the May term last?

Answer. I think that the April term and the May term lasted fifty-six days, but I cannot tell you how many days to each term.

Question. Did the May term run through to the month of June?

Answer. I do not recollect, but I think not.

Question, (by Mr. Clark.) Come now to January, 1852. I want you to state all you know of what was said or done in open court, and to speak without reference to your impression about these cases. What was said or done in January, 1852, in open court, in your presence, in respect to these cases?

Answer. In January term, 1852, John W. Taylor, a lawyer, came down from the upper country, and announced himself as counsel generally for the defendants in the Lapsley cases. Mr. Swett had gone to California, and John W. Taylor, as I understood, was the counsel.

Question. Were the cases on the calendar at that term?

Answer. Yes, sir; on the trial docket.

Question. And John W. Taylor came and announced in court that he was counsel for all the defendants in these cases?

Answer. I think for all.

Question. What did he propose or say?

Answer. In the course of his remarks he made some remark which led Judge Watrous to have the minutes of the April term examined. I cannot recollect what that remark was.

Question. First state how he mentioned these cases?

Answer. John W. Taylor announced himself as the counsel for the defendants generally, and in some remarks he said something—what it was I do not recollect—which led Judge Watrous to have the minutes of the April term read, and he then discovered—and apparently to me, for the first time—that the clerk had omitted to make the entry that he had disclosed his interest.

Question. You say Judge Watrous discovered that; do you mean to say that Judge Watrous stated that he had discovered it, or that your impression was that he discovered it?

Answer. I judged so from his manner.

Question. Did he say anything as to his surprise?

Answer. Yes, sir; he became a good deal excited, and made some remark to set himself right before Mr. Taylor.

Question. What fact did he communicate?

Answer. He stated that he had disclosed his interest at a former term; and then he turned to the clerk, and, in a tone angry and excited, directed him to make then the order, and to shape it so that it would show that all orders, if any had been made, had been made by consent, and not by order of the court.

Question. All previous orders?

Answer. Yes, sir, if any.

Question. Had Mr. Taylor said anything to call for that vindication of the court?

Answer. He did, but I cannot recollect what remark it was.

Question. Had he implied any censure?

Answer. I thought he said something that nettled the judge, but what it was I cannot recollect.

Question. Taylor first mentioned the subject?

Answer. Yes, sir.

Question. He said something which you thought irritated the judge?

Answer. Yes, sir.

Question. And in answer to that, he then referred to the minutes of the April term?

Answer. Yes, sir.

Question. Did the judge state that it appeared that no entry had been made, or that the entry of his interest had not been made?

Answer. The judge had discovered that the clerk omitted to make the entry of the disclosure of his interest, and his refusal to sit in the case; that there was no entry. He became excited, and addressed some remarks to Mr. Taylor to put himself right. He then turned his attention to the deputy clerk, John S. Jones.

Question. What did Mr. Taylor propose?

Answer. Mr. Taylor then proposed to have the cases transferred to Austin for the convenience of his clients. They were living in the neighborhood.

Question. Mr. Taylor proposed that?

Answer. Yes, sir.

Question. What was said in open court by the judge?

Answer. The judge refused to make any order, as I tell you. He

told him he would not. I recollect his expression very distinctly. It was rather a homely one: it was, that he would not touch it with a forty-foot pole?

Question. He used that expression?

Answer. Yes, sir, he did.

Question. Did he say why he would not touch it with a forty-foot pole?

Answer. He had disclosed his interest.

Question. Did he say at that time what interest he had?

Answer. I cannot distinctly state that. The record will show.

Question. Do you recollect what the judge said in relation to his interest, if he had any, or in relation to his disqualification to try the cases, or to make an order in them?

Answer. My belief is, that he stated it was on account of his relationship by blood or marriage.

Question. But did you get the idea then, from what the judge said, that he was the owner of the land, and directly interested in the subject-matter of the suits?

Answer. I cannot say positively about that. I do not think I did.

Question. Did you ever get that idea until after the cases were transferred to Austin?

Answer. No, sir; I do not think I did.

Question. You did not know the fact, if fact it be?

Answer. No, sir.

Question. And you thought it was a disqualification resulting from his connexion with the parties?

Answer. I judged so from the entry on the record.

Question. I did not ask your judgment from the record. I ask you to speak from what Judge Watrous said in open court?

Answer. I have told you as nearly as I can recollect.

Question. Do you recollect an occasion when the court was kept open in order to give Mr. Mussina or his attorney an opportunity to take an appeal from Judge Watrous' decision in the Cavazos case?

Answer. I recollect that perfectly well.

Question. State, with brevity, when it was, and the circumstances?

Answer. The decree and the judgment of the court was rendered on the morning of the 15th of January, 1852, I think. Mr. Atchison came into court immediately, and made some very harsh remarks.

Question. Who was Atchison?

Answer. Atchison was the attorney of Mr. Mussina, as I understood.

Question. What did Mr. Atchison say?

Answer. I do not recollect his precise language; but his remarks were very unbecoming to a judge.

Question. And rude?

Answer. Yes, sir; rude.

Question. Did he refer to the Lapsley cases?

Answer. I do not recollect that he did.

Question. Then he was upbraiding the judge for the decision he had rendered in the Mussina case?

Answer. I thought so.

Question. On what ground was he upbraiding him for his decision ; was it on the merits, or for his making the decision when he had said that he was not going to hold the court ?

Answer. He did not say anything about the judge not holding the court, but he seemed to complain that the judge had rendered a decree while Mr. Howard was absent. Mr. Howard was a member of Congress, and was at Washington. He complained of that.

Question. Then the grievance was, that the judge had rendered his decision in the absence of Mr. Howard ?

Answer. Yes, sir.

Question. Mr. Howard then being a member of Congress ?

Answer. Yes, sir.

Question. Was there any complaint made touching Judge Watrous' decision on the merits of the question ?

Answer. I do not recollect positively about it. I know that his remarks were harsh and rude.

Question. But the impression on your mind is, that that rudeness arose from the judge deciding the case in the absence of Mr. Howard ?

Answer. Deciding the case against him, and in the absence of Mr. Howard.

Question. Did Mr. Atchison state any reason why the judge was not at liberty to decide the case in the absence of Mr. Howard or anybody else ?

Answer. He stated, I believe, that Mr. Howard was the principal counsel, and that it was an unusual and unheard of thing to decide a case in the absence of the principal counsel.

Question. Are you able to speak of the practice of that court in that particular ; was it unusual for a judge to render a decree in a very important cause in the absence of the leading counsel ; was it usual or unusual ?

Answer. Mr. Atchison was the counsel, and Judge Watrous was in the habit of rendering decrees in presence of the counsel.

Question. Was there any counsel there from the other side ?

Answer. Yes ; Mr. Hale was there.

Question. Was Judge Hughes there ?

Answer. I think Judge Hughes was there.

Question. Was the decision rendered at the opening of the court ?

Answer. No, sir ; it was rendered within two or three days of the closing of the term.

Question. Was the opinion in writing, or oral ?

Answer. I think the opinion was in writing ; but I am not certain about that.

Question. And it was filed with the clerk ?

Answer. I think so.

Question. Did the judge do anything except announce that he had decided the case, and filed his written opinion ?

Answer. Nothing at all.

Question. He did not elaborate the decision ?

Answer. No, sir.

Question. Did Mr. Atchison assign any reason, beyond the custom of which you speak, why Judge Watrous should not have decided the case in the absence of Mr. Howard?

Answer. I do not recollect anything further than that he had a good deal to say, and his remarks were evidently rude and insulting to the judge.

Question. Did the judge make any explanation, or say anything touching the matter of his deciding the case in the absence of Mr. Howard?

Answer. Yes.

Question. What did he say?

Answer. I think the judge asked him if he was not the counsel in the case. Atchison replied that he was.

Question. What else; why did he not then retract; what did he complain of; that he had lost an opportunity of appeal, or might lose it, or that he did not know what to do?

Answer. I do not think he knew what to do.

Question. You think that was the difficulty?

Answer. That was my opinion.

Question. Do you think he was beyond his depth?

Answer. Yes; I thought so.

Question. Did he say that he did not know about taking an appeal in the absence of Mr. Howard?

Answer. He complained to Mr. Hale, the counsel.

Question. Did the judge hear that?

Answer. I do not know.

Question, (by Mr. Clark.) Then I do not want it; I only want what was done in open court, or what Judge Watrous heard. What was said about taking an appeal?

Answer. Judge Watrous directed me——

Question. In open court?

Answer. Yes.

Question. In the presence of Atchison?

Answer. No, sir. Mr. Atchison had quit the court-house, very angry.

Question. Did he say, when he quitted the court-house, that he had abandoned the case?

Answer. No, sir; I do not recollect; he was in a bad humor generally.

Question. And he left the court?

Answer. He left the court.

Question. After he left the court, what did Judge Watrous say?

Answer. After he left the court, Judge Watrous ordered me—I was then a deputy marshal, and in attendance on the court—to appoint a bailiff, and keep him in the court-house for the purpose of letting him know if Mr. Atchison came in, and to keep the court open until the time of the starting of the boat for Brownsville, where he was going to hold his next term. In place of putting a bailiff in court, I remained there myself, and stayed there until 12 o'clock each night.

Question. What day was that?

Answer. That was the 15th, 16th, and 17th of January. The court adjourned at the time the bell was rung on board the boat for passengers to go on board.

Question. The court adjourned the 17th of January, 1852?

Answer. Yes.

Question. When was it that Atchison left the court-room?

Answer. On the morning of the 15th of January, 1852.

Question. The decree was rendered on the 15th?

Answer. Yes.

Question. Was there any further business done after the decree was rendered?

Answer. No further business was done, but to make up the minutes and sign them. That the judge did, and went from the court-house to the boat.

Question. Was there any further business done between the 15th and the 17th?

Answer. I do not think there was.

Question. Then the last business done was the rendition of the decree?

Answer. I think so.

Question. What time of the day was it on the 15th?

Answer. I think the decree was rendered at about 11 or 12 o'clock on the morning of the 15th. I kept the court open.

Question. How late that day?

Answer. Till about 12 o'clock that night.

Question. And the next day?

Answer. I went from the market-house, about daylight, to the court-house, and remained there that day until about 12 o'clock that night.

Question. That was the 16th?

Answer. Yes, sir.

Question. Well, the 17th?

Answer. About 12 o'clock, on the 17th, Judge Watrous left for Brownsville, on the boat.

Question. When was Judge Watrous' court at Brownsville held?

Answer. It was held in the month of January.

Question. Then this keeping the court open after the business was done was all unusual?

Answer. Yes; but the judge told me he wanted to afford Mr. Atchison an opportunity to take an appeal.

Question. Did Atchison know that this was going on?

Answer. I do not know; I think he did.

Question. What makes you think he did?

Answer. I asked Mr. Jones to tell him, and to say that I was tired remaining there.

Question. Do you know, of your own knowledge, that Atchison knew it; had the judge informed Atchison, before he left the court in a pet, that he should keep the court open for the purpose of facilitating an appeal, or was this order made after Atchison had left; I want to see if Atchison knew it; did Atchison come in there at all?

Answer. No, sir; he never came.

Question. Was there a pretty full attendance of the bar, at the time that Judge Watrous told you to keep the court open?

Answer. I do not think there were a great many lawyers in the room; I am certain, though, there were some.

Question. Do you know of any fact that would tend to satisfy us on the point, whether Atchison knew of Judge Watrous' keeping the court open?

Answer. Nothing more than that I, myself, sent Atchison word, by Jones, the deputy clerk.

Question. But no step was taken further?

Answer. I did not feel bound to follow Mr. Atchison.

Question. You sent Jones after him?

Answer. I did that as a matter of accommodation. I wanted to get rid of sitting there day and night.

Question. Where was Judge Watrous these two days?

Answer. In the office, adjoining the court. He directed me to come for him, if Atchison came in.

Question. Before Atchison left the court was anything said by Atchison or by the judge about an appeal at all?

Answer. I do not recollect.

SATURDAY, MAY 1, 1858.

J. A. H. Cleveland examined by Mr. Cushing, counsel for Judge Watrous.

Question. You have stated that, after the complaints by Mr. Atchison in court, on the rendition of Judge Watrous' decision in *Cavazos vs. Shannon*, the judge ordered the court to be kept open to receive an appeal. Was that order given before or after Mr. Atchison left court?

Answer. I was mistaken, the other day, about that. On reflection, and on thinking a good deal about it, I recollect pretty much what occurred in court. The order was made in Mr. Atchison's hearing, just as he was in the act of leaving the court.

Question. Do you recollect the words that Judge Watrous employed in making that order?

Answer. I do, sir.

Question. Please state them?

Answer. At the close of the discussion between Mr. Atchison and the judge, Mr. Atchison was evidently angry, and replied in pretty harsh terms, as I stated, to the judge. The judge replied to him, "I do not intend to be put in the wrong in this matter;" and he turned to me and said, "Mr. Marshal, do you keep this court open as long as I can possibly remain here, for the purpose of letting Mr. Atchison take whatever course he pleases." He turned away, with his hat in his hand, and left the court-room.

Question. Were you in attendance on the court from January 13 to January 15, 1857?

Answer. I was, all the time that it was in session.

Question. Was any application made during that time for appeal in the case of Cavazos against Shannon?

Answer. I never heard of it in court.

Question. Were you absent from court at any time during its sittings at that period?

Answer. I am the deputy marshal that always attends in court, and I was almost always there. I stated in my testimony, the other day, that the term lasted fifty-six days. I was mistaken in that. I was paid as bailiff for fifty-six days, and I presume that the term must have been seventy days. Sundays and holidays are always excluded in paying the bailiff.

Cross-examined by Mr. Evans.

Question. What is the mileage distance from Galveston to Brownsville?

Answer. We usually estimate it at five hundred miles each way. That is the mail-route distance.

Question. How far does the Galveston district extend along the coast westward?

Answer. I do not think that the judge has ever made any subdivision of the district. Writs can be returned either at Brownsville or Galveston, I understand.

Question. Have you, since the June term of 1853, summoned jurors to attend at Brownsville from the counties of Cameron, Starr, Webb, or Hidalgo?

Answer. Not on the regular panel.

Question. State your reasons?

Answer. The writ always comes to me from the clerk, directing me, in summoning jurors, to exclude those counties bordering on the Rio Grande.

Question. You state that the citizens of those counties are excluded from jury duty.

Answer. That is the way the writ comes to me, and I always execute it as it comes. I have got a copy of one of these writs with me at my room. When I was at Brownsville, in 1855, I examined the causes for that order, in order to justify some attacks made upon myself about it, and I made a publication in the paper.

Question. What did you then state as the reason?

Answer. The reasons were these: I found an affidavit made by three very prominent men of Brownsville: Mr. Kingsbury, Mr. Powers, the ex-collector, and Mr. Cummings, the postmaster. They stated under oath, on an application to the judge, that almost every man in the valley of the Rio Grande was more or less interested in the result of large land suits then pending in the courts. They stated that they did not believe that any juror summoned from those counties could be fair and impartial. Mr. Hale opposed it with all his force; and, after some discussion, the judge, I believe, finally granted the application, and made the order on their showing.

Question, (by Mr. Clark.) What counsel prosecuted it?

Answer. I think Mr. Powers was the manager. I am not certain whether it was Powers or Cumming, but it was one or the other.

Question, (by Mr. Evans.) Were you present at the time the order was made?

Answer. No, sir; I was not present.

Question. How did you obtain your information?

Answer. I obtained it from the record and from what I heard.

Question. From whom did you hear it?

Answer. I heard Mr. Hale speak of it; I heard Mr. Kingsbury speak of it, and I heard the clerk of the court speak of it.

Question. Did you not state in that publication that there was proof adduced sustaining the motion?

Answer. I understood that Mr. Hale used every exertion he could to oppose it.

Question. That order applied to the grand as well as to the petty jurors?

Answer. Yes, sir; we generally summoned thirty-six jurors, and out of that number the grand jurors were elected by ballot.

Question. Do you know whether the grand jury at Brownsville made any presentments to be tried at Galveston?

Answer. I do not know that it was not usual.

Question. Did you not take the grand and petty jurors for the June term of 1853, from Galveston to Brownsville?

Answer. I usually got a good many of them from Galveston, for the reason that I have always taken them from there by steam or by water conveyance; whereas, if I summoned them from the western counties, I would have had to take them by bad roads.

Question. In what manner did you transport the jurors from Galveston to Brownsville?

Answer. Usually by water.

Question. I mean for the June term, 1853?

Answer. I was not there at the June term of 1853. Major McCulloch attended that term himself.

Question. I should say the June term of 1856; state how you transported the jury at that term?

Answer. I took them down in a vessel which I chartered for the purpose. I had entered into a contract with Harris & Morgan, and they disappointed me just at the time I expected to go, and I had to charter a vessel.

Question. Look at this list of jurors, and say whether they were the jurors whom you carried down on that occasion?

The following is the list, copied from the *American Flag*, of May 28, 1856:

Grand Jury: A. Parr, (foreman,) T. King, F. D. Allen, Henry Gardner, Henry Myers, J. Beslith, John Hickmott, W. P. Smith, J. Goode, J. Perry, J. League, C. Franklin, J. Macgranaghams, Mr. McCafferty, M. Cahill, and J. Williams.

Petit Jury: John English, J. Krausse, J. H. Purnell, Alexander Edgar, Mr. Neville, W. Cherry, Thomas Patterson, P. Grimes, Ambrose Crane, J. R. Parker, Mr. Hatch, and James Wrigley.

Judge J. C. Watrous, presiding ; S. D. Hay, esq., district attorney ; J. A. H. Cleveland, marshal.

The entire jury of this court, we believe, comes from Galveston ; and though we do not think this wholesale importation of jurors very flattering to our populous valley, yet, judging from the true personal appearance of the gentlemen, we doubt not they are as competent as our own citizens. The court will doubtless remain in session several weeks.

Answer. Yes ; that is a portion of them.

Question. They are correctly reported ?

Answer. Yes ; as far as they have gone.

Question. Are they not all citizens of Galveston ?

Answer. All of them, I think. I never summoned any man as a juror whom I did not know to be a citizen of the district.

Question. How were they selected ?

Answer. I summoned them myself from the body of the people. I did not draw them by ballot.

Question. You selected them ?

Answer. I got the best men I could, who were willing to go, on the spur of the moment.

Question. How many of them were freeholders and householders ?

Answer. All of them.

Question. Were they all on the jury list of the county of Galveston ?

Answer. I do not know that. I did not examine the jury list ; but I knew all the men I summoned ; that they were living there, and were householders or landholders.

Question. What is the occupation of John Hickmot ?

Answer. He had belonged to the theatre there for a considerable length of time, in Galveston.

Question. Of William P. Smith ?

Answer. He also belonged to the theatre.

Question. Of John English ?

Answer. He belonged to the theatre.

Question. Of J. H. Purnell ?

Answer. I do not know what his business was. I knew him for a long time, but did not know what he followed. The first three were all very talented men and good jurors.

Question. Was not Purnell a member of the theatrical company ?

Answer. I do not know whether he was or not.

Question, (by Mr. Clark.) How long had you known him ?

Answer. For more than a year ; probably for more than two years. He had been about town a good while.

Question. State, at this point, whether you had instructions as to the persons to be summoned as jurors ?

Answer. Judge Watrous never, in my life, told me to summon this man or that man, or asked me if I had summoned any particular man. If anything was wrong in that, I am guilty of it, not Judge Watrous.

Question, (by Mr. Evans.) Did not Judge Watrous go down in the same boat with them ?

Answer. I think he did.

Question, (by Mr. Billinghamurst.) Have you ever received any verbal instructions from Judge Watrous in respect to summoning jurors?

Answer. Not a syllable.

Question. Have you ever applied to him for instructions?

Answer. Never, sir.

Question. Have you had instructions from your chief, the marshal?

Answer. No, sir; I manage and conduct the office myself, and he is hardly ever there.

Question, (by Mr. Billinghamurst.) Do you know the origin of the practice adopted of summoning the jurors in the federal court of Texas?

Answer. This has always been the practice in the federal court, as I understand it. I usually sent out to the deputy marshals of the different counties, and directed them to bring two or three good and responsible men from such county. I do not know whether they drew them or not.

Question. You do not know the origin of the practice?

Answer. It has always been the practice, ever since I was marshal, to summon them as I did.

Question, (by Mr. Evans.) Do you know Francis J. Parker?

Answer. Yes; he is clerk of the United States district court at Brownsville.

Question. Did you not select him as a juror for the federal court at Galveston?

Answer. Yes; I took him up there as a juror. I summoned him.

Question. How often have you selected him?

Answer. I do not recollect. He has been there two or three times.

Question, (by Mr. Ready.) The order of the court, in regard to summoning jurors, applied only to the court at Brownsville?

Answer. That is all.

Question, (by Mr. Evans.) Have you summoned any jurors from the counties of Starr, Webb, Cameron, or Hidalgo?

Answer. I think I have; but I do not recollect at what term. I think I have had jurors from all of these counties. I cannot recollect distinctly, without referring to my books.

Question. I want you to state whether you have ever summoned from either of these counties any other juror than Francis J. Parker?

Answer. Yes, sir; I know I have, but I cannot tell the name without my books?

Question. Can you not think of one?

Answer. I do not recollect now; but I know I have summoned others. Parker is a man whom I am very intimate with, but I know I must have summoned half a dozen other men.

Question, (by Mr. Craig.) You summoned him as a juror?

Answer. Yes; Judge Watrous had nothing to do with it. He never in his life mentioned any such thing to me. He never knew who the jurors were till he saw them in the box before him.

NOTE.—Such of the subsequent testimony as relates to the procurement of jurors for the federal court in Texas was received, with the

condition that, unless it should be afterwards connected with Judge Watrous, it would be struck out.

Question, (by Mr. Evans.) You have answered that this man Parker was clerk of the court at Brownsville?

Answer. Yes.

Question. He served as a juror at Galveston?

Answer. Yes, sir ; but never at Brownsville.

Question. I wish to ask you whether W. G. Hale resides at Galveston?

Answer. He has resided a part of his time there and a part at Lamar. I suppose I may say his residence was at Galveston.

Question. He has resided usually at Galveston?

Answer. Usually for a long time.

Question. Is he not a litigant in the court at Brownsville?

Answer. He is attorney for the plaintiffs in several large land suits at Brownsville. He represented the Cavazos parties.

Question. Is he not interested in the lands that are in litigation?

Answer. I do not know that he is. I never heard him say how he was to get his fees.

Question. Did he not go down with the jurors, in 1856, from Galveston to Brownsville?

Answer. Mr. Hale and Mr. Hatch travelled by land, and got there before us.

Question. What are your relations with Simon Mussina ; friendly, or unfriendly?

[Question excluded.]

Question, (by Mr. Billingham.) Were any of these Brownsville land cases tried at Galveston?

Answer. No, sir ; not that I recollect. All the suits on the docket at Brownsville remained there ; none of them had been transferred to Galveston.

Question. No suits were instituted at Galveston relating to titles to land at Brownsville?

Answer. There were some suits commenced there which were removed to Brownsville by some order of the court for the convenience of the litigants there.

Question, (by Mr. Cushing.) Was any exception taken by any counsel, or other person in court, to the jurors summoned by you to the Brownsville court in June, 1856?

Answer. There was no exception taken.

Question, (by Judge Watrous.) Has there ever been any exception taken by any lawyer or party, as far as you know, to my method of empannelling jurors?

Answer. Never in court.

Question. Has it, or has it not, been considered by the bar?

[Question excluded.]

WITNESS. I desire to make some explanation of my testimony on Thursday.

In regard to the Judge disclosing his interest at the April term of 1851, I recollect that he stated that he was part owner of the lands.

Question, (by Mr. Clark.) Is that all the correction you wish to make?

Answer. That is all, except as to the length of April and May term. I said fifty-six days; it was probably seventy days.

Question. When did this new recollection come to you?

Answer. On returning to my room and thinking over it. When I was called here, I did not know on what point I was going to be examined.

Question. Do you not recollect how I questioned you very particularly on that point?

Answer. Yes; but you questioned me very fast.

Question. When did this thing return to your recollection?

Answer. On the very day I was examined here. I went to my room, and I began to think and study it over.

Question. You recollect that I put the question half a dozen times, with a view to refresh your memory?

Answer. I recollect you did.

Question. Did you have any conversation with Judge Watrous on that point?

Answer. I did have a conversation with Judge Watrous, for the purpose of refreshing my memory.

Question. And he did refresh it?

Answer. He did, sir; but Judge Watrous could not get me to state a falsehood.

Question. But your recollection of that incident is aided by your conversation with Judge Watrous?

Answer. I talked with Judge Watrous and Colonel Love about it.

Question. When did you have that conversation about it?

Answer. The evening of the day I was examined.

Question. Can you give the language the judge used when he stated his pecuniary interest in the suits?

Answer. He stated that they need not proceed any further; that he could not try any of the Lapsley cases; that he had an interest in them—an interest by marriage; and that he was part owner of the lands. That was about the language he used, as well as I recollect.

Question. Then he said he was part owner of the lands?

Answer. Yes; that he had a personal interest in the lands, or in the suit.

Question. Or in the subject-matter?

Answer. Yes; that was his expression, I think.

Question. And you are certain, now, that the disqualifying relation that he spoke of was not one of blood or marriage?

Answer. I think he stated both—that he had an interest both ways?

Question. Was it true that he had an interest, by blood or marriage, disqualifying him?

Answer. I do not know whether it was true or not?

Question. You recollect I was quite particular in my inquiries as to the notice given in court as to keeping the court open for an appeal; whether Atchison had or had not left the court when

that notice was given ; have you had any conversation with any party on that point since ?

Answer. I have, sir ; but it was in order to see whether I was right or not ?

Question. With whom ?

Answer. With Colonel Love, and with Judge Watrous, and with Mr. Shearer.

Question. Did you travel to this city with Colonel Love ?

Answer. No ; I came here alone. I came a different route from the other witnesses ?

Question. Did you have any conversation with Colonel Love, since you got here, as to the points you expected to prove ?

Answer. Only at the time I have stated. I wanted to recollect and state the thing as well as I could. That was my reason for inquiring and refreshing my memory.

Question, (by Judge Watrous.) You spoke of having talked with me on this subject since the close of your testimony ; did I approach you on the subject, or you me ?

Answer. I asked you ; and I think I said——

[Question excluded.]

J. A. H. CLEVELAND.

THURSDAY, MAY 6, 1858.

J. A. H. Cleveland's examination continued by Mr. Clark.

Question. Did you attend the court, as deputy marshal, in January, 1857 ?

Answer. Yes, sir.

Question. Do you recollect any occasion, during that term, when an application was made by any person, in behalf of Mussina, for the allowance of an appeal in the case of Cavazos against Stillman and others ?

Answer. I know of no such application.

Question. How constantly were you in attendance on the court ?

Answer. I was constantly in attendance. I was scarcely ever out of the court-house.

Question. At what hour does the court generally open ?

Answer. Generally at 10 o'clock.

Question. What time does it adjourn ?

Answer. It adjourns at 2 o'clock, and sometimes a little later.

Question. Do you mean to say that your duties required your attendance during the whole sitting of court ?

Answer. I thought so, and I was always there, or nearly so.

Question. Do you know Mr. Atchison ?

Answer. Very well.

Question. Did you see him in court during that term ?

Answer. He was in court during the term.

Question. Frequently ?

Answer. Yes; I saw him occasionally.

Question. What for?

Answer. I do not know particularly. I do not think he has much business in the court, but he came in as other lawyers come in.

Question. Did you hear him make application to the court on any subject?

Answer. I do not think I did.

Question. Does your recollection enable you to say whether or not, during that term, Mr. Atchison stated to the judge in open court that he desired to have his appeal allowed, and the penalty of the appeal bond fixed in the case to which I refer?

Answer. I did not see it or hear it.

Question. Did you hear anything during that term of any application on the behalf of anybody for an appeal in any case?

Answer. Yes, I did, as a matter of course; I heard other lawyers speaking about appeals.

Question. Did you hear anybody make application to the judge to fix the penalty of an appeal bond in any case?

Answer. Yes, I think I have.

Question. Who made such an application?

Answer. I think that Mr. Hale, and, perhaps, Judge Hughes, made application in cases. I do not recollect any particular case that was appealed, but I recollect that particularly well, from certain circumstances. I think that very shortly after the 15th day of January I went into Judge Watrous' room in the morning, as was my usual habit.

Question. Who was present at the interview of which you propose to speak?

Answer. Mr. Parker was in Judge Watrous' room.

Question. Who else? Was Mr. Atchison there?

Answer. No, sir.

Question. By whom, if by any person, was your attention called to the subject-matter of an application by any person for an appeal in the case of Cavazos against Mussina?

Answer. I never heard anybody apply for an appeal in the case?

Question. By whom was your attention brought to the matter?

Answer. Judge Watrous called my attention to it in his own room.

Question. Have you ever had any conversation with Mr. Atchison about it?

Answer. I never had a word with him about it in my life.

Question. Was Mr. Hale in court constantly during that term in 1857?

Answer. He was in and out. He had some business in the State court, which was in session, but I think that for several days after the term commenced he was in court.

Question. When did that term commence?

Answer. The first Monday of January, 1857—the 5th or 6th.

Question. Was Mr. Hale in court every day during the term as often as once a day?

Answer. I cannot say that, but it seems to me he was. He lived

with me, and I knew a good deal about him. He was generally in court, as he had a good deal of business in it.

Question. Do you know of any efforts on the part of the judge to facilitate an appeal on the part of Mussina—anything he did?

Answer. I do not know anything he did particularly. I never saw him do anything about it, because I never heard any application to him in court about it.

Question. Did you anywhere else ; at chambers, or elsewhere?

Answer. No, sir ; I never heard the application made to him.

Question, (by Mr. Billinghamst.) Was it with Mr. Atchison he talked?

Answer. I told you I never talked with Atchison about it.

Question. But if you heard Judge Watrous say anything about it, was it in the presence of Mr. Atchison?

Answer. No, sir.

Question, (by Mr. Clark.) You recollect Mr. Atchison coming into court, and complaining of the rendition of the judgment in the Mussina case?

Answer. Yes.

Question. You heard what the judge said?

Answer. I did.

Question. Did the judge, on that occasion, say anything about his having seen parties at Austin, and about their agreement with the decree he had made?

Answer. I did not hear him say any such thing.

Question. Did you pay close attention to it?

Answer. I did.

Question. Can you swear that the judge did not say, in answer to Mr. Atchison, when Mr. Atchison expressed surprise that the judge should make his decree in the absence of Mr. Howard, that he had seen the parties at Austin, or somebody at Austin, and that they, or somebody, had acquiesced in the decree?

Answer. I never heard the judge say any such thing ; never.

Question. Did the judge use any language expressive of surprise that Mr. Atchison should resist the rendition of a decree in the Cavazos case?

Answer. Not a particle.

Question, (by Mr. Billinghamst.) You mentioned Francis J. Parker ; who is he?

Answer. He is the clerk at the court at Brownsville.

Question. Did he attend the January term of the court at Galveston, in 1857?

Answer. I think he did.

Question. Was he a juror summoned by you?

Answer. Yes.

Question. Did he officiate as deputy clerk during that term of the court?

Answer. He sometimes assisted Colonel Love in making up the records, in the morning, before the court commenced. He wrote up the record sometimes for Colonel Love.

Question. Did he act at Colonel Love's desk at any time during the court?

Answer. I do not think he did ; I am not certain about it.

Question. Was any jury case tried at that term?

Answer. Yes, sir ; a good many of them.

Question. Was he on any of the juries?

Answer. Yes, sir.

Question. Was he a juror in 1856?

Answer. I do not recollect ; he has been there two or three times as a juror, but I cannot tell what terms ; he was there as a juror in 1857.

Question, (by Mr. Clark.) Was Mr. League often in court?

Answer. Yes ; he was often in court.

Question. Had he many suits there?

Answer. I do not know of many suits that he had.

Question. Had he many suits in court four, or five, or six years ago?

Answer. Mr. League has always had the reputation of having a great deal of business in court ; but I do not know that he has had a good deal. There are men in the country who have much more business in the court than he has.

EXAMINATION OF THOMAS M. LEAGUE.

MONDAY, MAY 3, 1858.

Sworn and examined by Mr. Clark.

Question. Where do you reside?

Answer. I reside in Galveston, Texas.

Question. How long have you resided there?

Answer. I have resided there about two years since I went last, though I have been in Texas twenty-one years. I changed my residence at one time, and removed to the city of Baltimore. For the last time I have resided in Texas two years.

Question. Have you never resided in Galveston till within the two years last past?

Answer. Yes.

Question. When?

Answer. In 1846 I removed to Galveston, and resided there till 1850.

Question. Subsequent to 1850? Did you leave there in 1850?

Answer. I left there in 1850, and removed to the city of Baltimore. I resided there some four years, and then removed back to Galveston, and have resided there ever since.

Question. You first took up your residence in Galveston in 1846?

Answer. Yes.

Question. You know Judge Watrous?

Answer. I know him well.

Question. When did your acquaintance with him commence?

Answer. My acquaintance with Judge Watrous commenced, if I mistake not, in the year 1838 or 1839—I cannot say which.

Question. Whereabouts?

Answer. In the city of Houston, Texas.

Question. Were you a resident of that place?

Answer. I was.

Question. Was Judge Watrous?

Answer. He was a resident of Texas; but whether he resided in Houston, I cannot say.

Question. Did you become well acquainted with him?

Answer. Yes, sir. I was a member of the firm of League, Andrews, & Co. Judge Watrous was at that time a practicing attorney, and was the attorney of our firm. Through that means I became acquainted intimately with him.

Question. Judge Watrous lived in Houston at that time?

Answer. I presume he did.

Question. Did you become intimate with him in your personal relations?

Answer. Only as a client with attorney.

Question. Your relations were those of client and attorney—friendly.

Answer. Yes, sir.

Question. The firm of which you speak, in what business was it engaged?

Answer. General merchandise.

Question. Do you recollect when it was that Judge Watrous took his seat on the bench?

Answer. I cannot say exactly—after annexation.

Question. Do you not recollect the precise date?

Answer. No, sir; there is nothing to fix it on my mind.

Question. You were a suitor in his court?

Answer. No, sir; I could not be. I was a citizen of Texas.

Question. And you never were a suitor in Judge Watrous' court?

Answer. When I removed to Maryland I was a suitor?

Question. Did you remove to Maryland in order that your citizenship might be changed?

Answer. I did remove; but not for the purpose of bringing suits in Judge Watrous' court. I removed to Maryland for the purpose of educating my children—two children who were born in Maryland. I had five children born in Texas, and had lost four of them. The youngest one was then some two months old. I removed to Maryland to change the climate, and see whether I could not raise that child.

Question. And after you removed to Maryland you were occasionally a suitor in Judge Watrous' court?

Answer. I was.

Question. Who was your counsel?

Answer. Judge Robert Hughes.

Question. Did you at any time become interested with Judge Watrous in the purchase of any lands in the State of Texas?

Answer. I never purchased any land in connexion with Judge Watrous.

Question. Did you ever become interested in some lands in connexion with him?

Answer. Judge Watrous became interested with me afterwards.

Question, (by Mr. Ready.) You were interested in the ownership?

Answer. Yes, sir; we were interested in the ownership.

Question, (by Mr. Clark.) When did you become interested with Judge Watrous, or he with you, in any lands in Texas?

Answer. Judge Watrous became interested, together with Lapsley, Frow, Plattenburg, Price, and myself, in the Tomas de la Vega grant, lying on the Brazos river, on the 9th day of July, 1850. Before that time the grant belonged to me exclusively.

Question. How long had you been the owner of it?

Answer. I purchased that grant from Jacob De Cordova, the agent of Mrs. St. John, some time in the month of June, 1850.

Question. Where did you make the purchase?

Answer. In the city of Galveston, Texas.

Question. From whom?

Answer. From Jacob De Cordova, the agent of Mrs. St. John.

Question. At what price?

Answer. I made that purchase for the sum of \$6,250, and had three months to make the payment in.

Question. What were the terms?

Answer. It was to be a cash purchase. At the end of three months I was to pay cash.

Question. Had you any previous acquaintance with Cordova?

Answer. I had known him for years.

Question. A good many years?

Answer. Yes.

Question. What was his business?

Answer. The same as mine.

Question. A merchant?

Answer. No, sir; I had changed at that time; I was a dealer in real estate.

Question. How many years had you known Cordova?

Answer. Ten or fifteen years.

Question. Your mercantile business, then, had been discontinued.

Answer. It was discontinued in 1842.

Question. And you had become a dealer in real estate?

Answer. Yes, sir.

Question. You were acquainted with the tract you had purchased?

Answer. I had examined it.

Question. Before you made the purchase?

Answer. Yes; I had examined the tract. Before that, I had the refusal of it. No person could have bought it but me.

Question. I ask you if you had examined the tract of land before you made the contract to purchase?

Answer. I did.

Question. How long before ?

Answer. Not more, perhaps, than ten days or two weeks.

Question. You say that before that time you had the refusal of the purchase.

Answer. I had.

Question. How long had you had the refusal of the purchase ?

Answer. I think some thirty days before that time, and there were still two months to expire.

Question. Who accompanied you when you went to examine the tract ?

Answer. Thomas J. Frow, Mr. Price, and a gentleman named Keenan, from Alabama.

Question. Was that before you had made your executory contract for purchase.

Answer. It was before I had made it perfect. They were bound to me, and could not sell it to any one else but me. I held their obligation.

Question. Then, you had communicated with Mr. Frow and others, in Alabama, before you had made your purchase ?

Answer. Before I had made my contract perfect. They were bound to me, and could not sell to any one else ; but I was not bound to them.

Question. It was a privilege to buy, and not a contract to purchase ?

Answer. That is it.

Question. Did you ever examine the tract before you visited it with Mr. Frow and the others ?

Answer. I never was there before. I never was there but the one time.

Question. What was the date of that visit ?

Answer. I examined the tract in June, 1850.

Question. State generally the extent of the tract.

Answer. It is an eleven-league grant ?

Question. About what number of acres does that embrace ?

Answer. 48,708 acres ; that is the amount of eleven-league grants. They sometimes overrun it, and sometimes fall short of it.

Question. You visited it in June, 1850, in company with these gentlemen ?

Answer. Yes, sir.

Question. How was it occupied—was it waste land, or were there occupants on it ?

Answer. There was a tenant living on the land, holding under Mrs. St. John.

Question. What was his name ?

Answer. Mortimer Donohoe. There were two or three others living on the land, holding under Mrs. St. John by purchase.

Question. By purchase of separate portions ?

Answer. Yes, sir ; Mr. Donohoe did not hold by purchase. He was a tenant holding under a lease from Mr. St. John. The others were holding by purchase under Mrs. St. John.

Question. What number of persons were holding by purchase or alleged purchase ?

Answer. Some three or four.

Question. Were there any persons on the tract holding adversely, or claiming to hold adversely?

Answer. I saw two who were claiming adversely by location.

Question. Location under what?

Answer. Location under headright certificates—soldiers' claims.

Question. What were their names?

Answer. One of them was named Barton; I do not recollect the name of the other.

Question. How extensive an examination of the tract did you make?

Answer. We rode over the tract and looked over the lands.

Question. Did you have a survey of it?

Answer. No, sir; we had no survey; we only rode over the lands.

Question. Do you know how it was occupied?

Answer. I cannot tell exactly how it was occupied.

Question. Did you see any more than two persons that held adversely?

Answer. No, sir. One of them I was well acquainted with before, and he told me he intended to raise his certificate.

Question. How much land did he occupy?

Answer. 640 acres or 320 acres, I am not certain which. He was a man by the name of Barton. He did raise his certificate, I think, afterwards.

Question. What do you mean by raising his certificate?

Answer. Taking it off the land to locate it elsewhere.

Question. At the time you were there, did he hold adversely, or did he tell you he would locate elsewhere?

Answer. In conversation with me, he told me he would lift his certificate.

Question. With regard to the other person?

Answer. He said the same.

Question. Then they were not holding adversely, nor going to make any difficulty?

Answer. I did not expect any litigation.

Question. Nor did you suppose that there would be any difficulty about the question of the contract?

Answer. Certainly not. I expected no litigation.

Question. To whom did you apply in reference to the money for the purchase?

Answer. I had three months to make the payment of the money in; I was looking around to see where I could raise the money. I went into Judge Watrous' room. He was living close to my dwelling. I spoke at the time about my having a fine opportunity to make some money—that is, to make a speculation if I could raise the money. Mr. Shearer was in the room, I think, at the same time. I said that I knew of a fine tract of land that I believed would become very valuable; that there were a great many certificates located on it. Under any circumstances, I believed a fortune could be made out of it; and I said that I wanted to raise \$7,000—between \$6,000 and \$7,000.

Question. What certificates? You have only spoken of two.

Answer. Yes, sir ; but those were certificates located upon land belonging to the same party, and which were sold with the land ; there were some ten or twelve thousand acres. I have the certificates in my pocket. It was cumulative title—double title. Between ten and twelve thousand acres of land could not be lost.

Question. That is, some ten or twelve thousand acres of the 48,000 tract ?

Answer. Yes, sir ; I was in the room speaking of the matter, and I said, further, that I was afraid that I could not possibly raise the money. Judge Watrous said, "What is that you say?" I think I was speaking to Mr. Shearer at the time. I recapitulated what I had said. He said then, "Ned, I think those men in Alabama would go into that ; your brother talked about making some purchase." From that one thing led to another. I cannot exactly relate all that was said. I did not have an idea that I would be called to repeat it ; that was the substance of it. I talked more with Mr. Shearer than with Judge Watrous. Mr. Shearer was induced to write to his brother-in-law, Mr. Price. Mr. Price was married to Mr. Shearer's sister. I had some conversation about it with Judge Watrous. I mentioned again that I considered that it was a sure game ; that 10,000 acres would certainly be worth the money to be paid ; that that was a sure title beyond a doubt.

Question. How much money ?

Answer. \$7,000.

Question. That is what you fixed it at then.

Answer. Yes, sir ; and that is what I intended it should bring. I paid \$6,250. I sold the land to them for \$7,000, and then there were some certificates.

Question. Who do you mean by them ?

Answer. I sold the land to Mr. Lapsley, Mr. Plattenberg, and Mr. Frow. Mr. Frow and Mr. Price are the men who made the contract in the name of Mr. Lapsley.

Question. You sold the land to Lapsley, Plattenberg, and Price ?

Answer. When I made the deed, I made it to John W. Lapsley. The three men I have named were the company.

Question. You had no interest ?

Answer. I had an interest ; I took an obligation from Mr. Lapsley. In that obligation it shows that Thomas M. League, John W. Lapsley, Plattenberg, Frow, Price, and John C. Watrous are the owners of the land ; John C. Watrous and Thomas M. League one-half, and the remaining one-half is owned in Alabama. I gave Judge Watrous one-half of my half for making the negotiation for me—for bringing me into contact with those gentlemen.

Question. You gave one-half of yours to Judge Watrous ?

Answer. Yes, sir.

Question. For bringing you into contact with capitalists, who advanced you the money ?

Answer. Yes, sir.

Question. Where did you see those people ? Did you go to Alabama ?

Answer. I saw Mr. Lapsley but once, and that was in Alabama.

Question. When was that?

Answer. About the 5th or the 9th of July, 1850.

Question. Where?

Answer. At Selma, Alabama.

Question. At that time had you made any investigation of the title to this land?

Answer. No, sir; my attorneys had.

Question. Who were your attorneys?

Answer. Robert Hughes, and Mr. Allen, and Mr. Hale; Robert Hughes principally.

Question. When was that done?

Answer. From the 1st of June to the 1st of July, 1850.

Question. After you got the refusal?

Answer. Yes, sir.

Question. Had he given you any abstract of title?

Answer. None.

Question. Did you know the title?

Answer. I did; it was an eleven-league claim; it was the Tomas de la Vega grant.

Question. How did Mrs. St. John get the title?

Answer. Mrs. St. John acquired from Samuel M. Williams.

Question. Who is he?

Answer. He is one of the empresarios of Austin & Williams.

Question. Where did Williams get his title?

Answer. He got his title by power of attorney.

Question. From whom?

Answer. Tomas de la Vega.

Question. La Vega alone?

Answer. From La Vega, Rafael Aguirre, and José Aguirre.

Question. When made and executed?

Answer. Executed some time in the year 1832, at Saltillo, Mexico. It was 1832, 1833, or 1834, I cannot say which; I can look at the papers in my pocket and refresh my memory.

Question. Certainly.

Answer. I do not find it exactly.

Question. In reading over your notes, you mentioned Mr. Gurley; who is he?

Answer. A clerk of the United States court at New Orleans.

Question. Have you the original power of attorney?

Answer. I have not.

Question. Where is it?

Answer. In the court at New Orleans. I went there for the purpose of getting it, but there was some objection to my taking it.

Question. When did you first employ Judge Hughes to investigate that title?

Answer. In June, 1850.

Question. Had you the title papers?

Answer. Yes, sir.

Question. You showed them to Judge Hughes?

Answer. Yes, sir ; I had them all, with the exception of that power of attorney. I had not that power of attorney ; it was in the general land office.

Question. Where?

Answer. At Austin. I never saw that power of attorney until it was withdrawn from the land office by Judge Hughes.

Question. It was reported about that the title was good?

Answer. Yes, sir.

Question. Did Judge Watrous know anything about it?

Answer. I never conversed with Judge Watrous on the subject of the title in my life.

Question. You went to Alabama?

Answer. Yes, sir.

Question. Who went with you?

Answer. Mr. Shearer and Judge Watrous. We went on the same boat.

Question. Started together?

Answer. Yes, sir. My family were at the north.

Question. Where did you go?

Answer. To Selma, Alabama. There I made this contract with Mr. Lapsley, and sold him this land for \$7,000. The land was \$7,000. There were other expenses. The full cost of the land to them and to me, because I was one of the partners, was \$8,160.

Question. That is the sum that they were to advance?

Answer. That is the sum which they were to advance, and did advance.

Question. These gentlemen were friends of Judge Watrous?

Answer. I presume they were.

Question. You did not know them?

Answer. I did not know any of them.

Question. Never had seen them?

Answer. Never had seem them before.

Question. Did you meet together?

Answer. Yes, sir.

Question. Was anything said about the title when you all met together in Selma?

Answer. Not a word.

Question. Mr. Lapsley consented to make the purchase without knowing anything of the title?

Answer. Mr. Frow and Mr. Price had consulted with Judge Hughes in regard to the title while they were in Texas. They had reported to Mr. Lapsley.

Question. How do you know?

Answer. I presume they did.

Question. Was anything said about the title in your presence by any body in Selma?

Answer. Nothing.

Question. No reference made to the subject of the title?

Answer. None, sir.

Question. How long were you in Selma?

Answer. Two or three days.

Question. Did you complete the negotiation at the first meeting?

Answer. I think we met once or twice.

Question. Who were present?

Answer. Mr. Shearer was present, Mr. Plattenberg, Mr. Price, Mr. Frow, and there was a gentleman there by the name of Goldsby. I had almost forgotten to mention him. He is interested: Thomas J. Goldsby, of Alabama. They were all present. Mr. Shearer's brother, Mr. William Shearer, was also present. So was Judge Watrous. It was a large room—Mr. Frow's room. Mr. Plattenberg and Judge Watrous were in a corner, and in conversation at the time.

Question. They knew nothing of what was going on?

Answer. They were in the room, but did not know what was going on. I presume that they thought it was something in relation to the land. I do not know, of my own knowledge, that they did not know.

Question. Were these Alabama gentlemen acquainted with anybody but Judge Watrous?

Answer. Yes, sir. They were all Alabamians, except myself. I was the only one not from Alabama.

Question. And Judge Watrous was the only man from Texas concerned in this transaction whom they knew?

Answer. Yes, sir.

Question. Did anything pass between yourself and Mr. Lapsley about the title?

Answer. Mr. Lapsley never asked me anything about the title.

Question. And Judge Watrous did not take any part in the matter, and he could not have said anything?

Answer. I never had any conversation with Judge Watrous as to the title.

Question. At any time?

Answer. At any time.

Question. From the beginning to the end?

Answer. From the beginning to the end.

Question. You never told him who searched the title?

Answer. Yes, sir.

Question. That is about the title?

Answer. I mean to say this: that I never had any conversation, in any manner, shape, or form, with Judge Watrous in regard to the question of title, the claim of title, or the title itself.

Question. To come back to Alabama. What was said about the title there? You say that Mr. Frow and his friend had talked about the title in Texas.

Answer. Yes, sir.

Question. How do you know?

Answer. Because I was present in the room at the time.

Question. Did they know the particular claim of title, or did they have an opinion on it?

Answer. The title deeds were before them—all except the power of attorney.

Question. That was the first interview?

Answer. Yes, sir.

Question. Who was present at the next interview?

Answer. At Selma?

Question. Yes, sir.

Answer. The first interview at Selma was at the hotel. It was a general interview. The next interview was at Mr. Frow's room.

Question. Was the matter communicated then?

Answer. Yes, sir.

Question. The whole thing was agreed upon?

Answer. The whole thing was agreed upon; the title was written out?

Question. Who wrote it?

Answer. It was blocked out by Mr. Lapsley.

Question. What did he block it out from? where did he get the description?

Answer. I presume that he wrote it out from my deed, and other papers.

Question. Did you get the deed at that time?

Answer. I did; from Mrs. St. John and Jacob Cordova?

Question. You paid the money?

Answer. No, sir; my obligation was held as security for the money.

Question. You had the title?

Answer. Yes, sir; but he held my obligation as security for that amount of money.

Question. Was that obligation secured upon the land?

Answer. No, sir; it was upon other securities.

Question. You had the same title paper from which he drew this deed?

Answer. The deed from Mrs. St. John to me, that was it, and from that deed he drew the other one.

Question. Did he pay money at that time?

Answer. I think he paid somewhere about \$2,000; I know that I got \$750.

Question. Who got the rest?

Answer. The rest of it went to pay for some of these certificates.

Question. Who took it?

Answer. That I cannot tell. I did not charge my mind with it at the time.

Question. Who had the certificates?

Answer. I had a transfer of them all.

Question. Then you got the money?

Answer. I got \$1,250 of it. There was a \$500 retaining fee, which was paid to Judge Hughes.

Question. What was that paid to Judge Hughes for?

Answer. Judge Hughes examined the titles. He examined everything connected with them. There was \$500 to be paid to Judge Hughes. I made this arrangement. It was so understood, and was to be carried out after I got to Selma. I made the arrangement with Messrs. Price and Frow, in Texas.

Question. Arrangement to do what?

Answer. They were to buy the land.

Question. I am talking about this \$500. You say that \$2,000 were paid, and that you got \$1,200, and \$500 went to Judge Hughes?

Answer. Yes, sir; \$500 went to Judge Hughes.

Question. You say that was a retaining fee; a retaining fee for suits to be commenced?

Answer. I presume that it was something of that kind.

Question. Do you not say so?

Answer. I presume it was.

Question. Is it so, or are you mistaken?

Answer. I do not know. Why Judge Hughes should have a fee of \$500, I do not know.

Question. That is what I want to get at—why you should give a lawyer \$500 as a retaining fee when there were to be no suits?

Answer. I do not know what Mr. Frow or Mr. Price did.

Question. That was their arrangement, and not yours?

Answer. Yes, sir.

Question. They had nothing to do with searching the title; that had been done?

Answer. It was searched well and rigidly while Mr. Price was there. Judge Hughes searched the title for me first.

Question. Did you pay him for it?

Answer. Judge Hughes was my attorney. I paid him, of course.

Question. Out of your own pocket?

Answer. Yes, sir.

Question. After he had searched it for you, did you tell Judge Watrous about that?

Answer. I did not.

Question, (by Mr. Billinghamst.) Do you say that you had not informed Judge Watrous that Judge Hughes had examined the title?

Answer. I cannot exactly state what Judge Watrous mentioned to me. Judge Watrous being a judge at the time, I was cautious what advances I made to him. I have been brought up in Maryland, where a judge is looked upon as a god. I would make no improper advances.

Question, (by Mr. Clark.) I do not think that the statement showed any.

Answer. There was none whatever. Judge Watrous never had anything to do with the title with me until after I had made this arrangement with these gentlemen in Alabama.

Question. At the interview at Galveston, to which you referred when Mr. Shearer was present, did you, or did you not, tell Judge Watrous that Judge Hughes had investigated this title?

Answer. I think it is probable that I did. I think I did.

Question. Do you remember whether you did or not?

Answer. I think I did. I cannot remember.

Question. You say that he searched the title for you, and that you paid him for it?

Answer. Yes, sir. Judge Hughes is my attorney for all my business there. Whether I paid him for that or not, specifically, I cannot say.

Question. It was settled in the account between him and you?

Answer. Yes, sir.

Question. He searched it again for Mr. Frow?

Answer. Yes, sir.

Question. Did he have to go all over the labor again?

Answer. He gave it a more rigid examination.

Question. What examination did he give it which he had not given it before?

Answer. I cannot tell.

Question. Was there any more occasion for a more rigid examination than when you bought it?

Answer. They were cautious men.

Question. Were you not a cautious man?

Answer. Being acquainted with the country, I might take risks which they would not.

Question. He made a more rigid examination?

Answer. Yes, sir.

Question. Was he paid for that? was this \$500 for that?

Answer. That was what it was for, I take it.

Question. Then, when you said that \$500 was paid him as a retaining fee, it was for searching this title?

Answer. Yes, sir. Judge Hughes gave me the draft in payment for \$500 he owed me.

Question. You had a draft?

Answer. Yes, sir.

Question. Was Judge Hughes with you?

Answer. No, sir.

Question. You took the draft?

Answer. Yes, sir; I took a bill.

Question. Do you recollect how that bill read?

Answer. I do not.

Question. How came you to use the word "retaining fee?"

Answer. Because I knew no other term.

Question. You received the \$500 which belonged to Judge Hughes?

Answer. Yes, sir.

Question. What disposition was made of the balance of the money?

Answer. I do not know anything about it. That is all I know.

Question. You gave the deed?

Answer. Yes, sir.

Question. The consideration was \$8,160?

Answer. Yes, sir.

Question. You got \$1,250, Judge Hughes \$500, and you paid no attention to the rest?

Answer. Yes, sir; I did pay attention to the rest. There was a deed. The balance of the money was not to be paid until that instrument was signed. That is the cause of the money not being paid. Mr. Lapsley thought possibly there might be something in regard to it, and he held it back.

Question. The balance of the money was held back until Mrs. St. John signed this paper?

Answer. Yes, sir.

Question. Who executed this paper?

Answer. Mr. Lapsley.

Question. Something, then, must have been said about the title?

Answer. No, sir; only as to Mrs. St. John.

Question. That related to the title?

Answer. De Cordova held a power of attorney from Mrs. St. John, and Mrs. St. John being a married woman, it was thought perhaps the power of attorney was not full. I do not know whether you call that relating to the title. At the time the question was first put, I thought it had reference to back title from the Mexican government.

Question. You purchased from Cordova?

Answer. Yes, sir.

Question. This is a ratification of that power of attorney?

Answer. Yes, sir.

It reads as follows:

I hereby ratify and confirm the act of my attorney, J. De Cordova, in selling and transferring, on or about the 1st day of July, 1850, to Thomas M. League, that certain eleven-league grant, or tract of land known as the La Vega grant, and standing in the names of M. B. Menard and Nathaniel F. Williams, trustees for me, and also in selling and transferring to the said Thomas M. League all the land scrip of the State of Texas located thereon and belonging to me. The transfer of land and of land scrip made by him as aforesaid being as valid as if done by me in person.

In witness whereof, I have hereunto affixed my hand and seal, this 19th day of August, A. D. 1850.

SOPHIA J. ST. JOHN. [SEAL.]

In presence of—

WILLIAM HENRY ST. JOHN,
DARIUS PORTER.

I fully concur in the above ratification, as witness my hand and seal, date aforesaid.

SAM'L ST. JOHN, JR. [SEAL.]

In presence of—

WILLIAM HENRY ST. JOHN,
DARIUS PORTER.

STATE OF NEW YORK, }
New York City and County. }

Be it remembered, that on the 19th day of August, in the year of our Lord one thousand eight hundred and fifty, before me, Joseph C. Lawrence, a commissioner of deeds in and for the said State, duly appointed and commissioned by the governor of the State of Texas with authority to take the acknowledgment and proof of deeds and other instruments in writing, under seal, to be used and recorded in said State of Texas, also to administer oaths and take and certify depositions, personally came William Henry St. John, personally known to me, who, being duly sworn, did depose and say, that he is

personally acquainted with Sophia J. St. John and Samuel St. John, jr., the persons described in and who executed the within instrument of writing, and that the said Sophia J. St. John and Samuel St. John, jr., signed and executed the said instrument for the purposes and considerations therein expressed, and at the request of the said Sophia J. St. John and Samuel St. John, jr., he became one of the subscribing witnesses to the execution of the same.

Given under my hand and official seal, at the city of New York, [SEAL.] the day and year above written.

JOSEPH C. LAWRENCE,
Commissioner for the State of Texas in New York.

Question, (by Mr. Clark.) That was one of the muniments of your title?

Answer. Yes, sir.

Question. You say that Mr. Lapsley executed this?

Answer. Yes, sir.

Question. Do you recollect what occurred when he said that this was necessary?

Answer. Mr. Lapsley thought that there might be something in regard to Mrs. St. John; that the power of attorney from her might not be full.

Question. Was she a married woman?

Answer. Yes, sir.

Question. This Samuel St. John was her husband?

Answer. Yes, sir.

Question. Did he execute the other power?

Answer. I think not.

Question. Then you bought from an attorney under a power executed by a married woman; her husband did not act with her?

Answer. I cannot tell exactly.

Question. Did Mr. Lapsley know that?

Answer. No, sir.

Question. How did Mr. Lapsley know anything about it, if nothing was said about the title?

Answer. There may have been something spoken about the title, but what was spoken about the title was as to the title from Mrs. St. John; there was nothing said as to the title from the Mexican government.

Question. You say that you assumed the title to be good in Mrs. St. John?

Answer. I did.

Question. Had you any title paper from Mrs. St. John?

Answer. I had a power of attorney.

Question. And a deed to you?

Answer. Yes, sir.

Question. Those you exhibited?

Answer. Yes, sir.

Question. Mr. Lapsley executed this?

Answer. He executed that before the money was paid.

Question. Was anything said by Mr. Frow, Lapsley, or yourself, touching the prior links in the chain of title?

Answer. Nothing at all.

Question. Was any inquiry made by Mr. Lapsley or anybody?

Answer. The only thing I know of which came up in any manner in regard to the title was this: Mr. Lapsley wrote the deed. The deed to me is a simple quit claim deed, "by, through, or under us, and no further."

Question. You mean your deed?

Answer. Yes, sir; when Mr. Lapsley wrote the deed, he wrote it making me warrant from the heirs of De la Vega down. I refused, for the time, to do it, because it was not customary with us in Texas. I have dealt a great deal in lands, and my usual mode of buying and selling was with a quit claim deed—take it as you find it.

Question. You say that the usual mode in Texas is not to warrant the title, but to covenant against the grantor's acts?

Answer. That is all.

Question. Why is that the custom; are titles precarious?

Answer. Yes, sir.

Question. These very titles in which you were dealing were understood to be uncertain?

Answer. No, sir.

Question. Then, why did you hesitate?

Answer. It may have been that Lapsley wanted to see what confidence I had in the title. I do not know what his views were. He asked for a warrantee from the heirs of La Vega down.

Question. Why did you decline to give it? you had the title searched.

Answer. I would have declined warranting to any one. It was not customary with us. I never gave a warrantee. I would not give a full warrantee title then.

Question. What did you do?

Answer. I gave him a quit claim deed. I did not warrant the title to be a good title.

Question. Were the links in the chain mentioned from La Vega down?

Answer. Yes, sir.

Question. Who mentioned them?

Answer. He had them before him.

Question. All?

Answer. All except the power of attorney.

Question. That was not before him?

Answer. No, sir; my impression is, that Mr. Frow and Mr. Price had the title papers before them. The title might have been in the hands of Judge Hughes. I cannot say. I do not know.

Question. Was Judge Hughes there?

Answer. He was not. The title might have been left there.

Question. In whose handwriting is the body of this instrument—the ratification of the power of attorney?

Answer. I cannot say.

Question. Is it Mr. Lapsley's handwriting?

Answer. It is not.

Question. I understand that the money was retained until you got that signed?

Answer. I do not know who did that. This is done 19th day of August, 1850. It was executed in New York.

Question. Did you get it signed?

Answer. I did not. It was sent to me by Mrs. St. John's son. Let me explain: When I left Selma, I was to get a ratification of the acts of Cordova; I went to Baltimore, and I saw there, at the Exchange Hotel, then kept by Mr. Page, Mrs. St. John's son; I spoke to him on the subject; then I saw Mr. St. John, and told him of the difficulty; I told him that so soon as he would furnish this paper he could get the money.

Question. Had you the paper with you?

Answer. I do not know; I do not think I had the paper; I think I might have had a memorandum.

Question. You state that the balance of the purchase money was reserved until this paper was signed; you meant this same ratification?

Answer. Yes, sir.

Question. Was there any paper at all drawn by Mr. Lapsley, or under his direction, at Selma, when you were there, to be executed by Mrs. St. John?

Answer. There must have been something—some memoranda. I know that the money was kept back until the ratification was signed.

Question. Was any other paper drawn?

Answer. That is all there is I know of. I did not charge my mind with it.

Question. Who made the communication to Mr. Lapsley, to enable him to draw anything which he did draw?

Answer. Mr. Lapsley is a lawyer, and he saw it?

Question. Are you a lawyer?

Answer. I am not.

Question. Did Judge Watrous give information on the subject?

Answer. If he did, I did not know of it.

Question. Is Mr. Frow a lawyer?

Answer. No, sir.

Question. Was Judge Hughes there?

Answer. He was not.

Question. How did Mr. Frow and his friend get to Texas; who corresponded to that end?

Answer. Mr. Shearer.

Question. Was Mr. Shearer an acquaintance of these gentlemen?

Answer. Mr. Price married Mr. Shearer's sister.

Question. And that is the way that was brought about?

Answer. Yes, sir.

Question. Did you take any memorandum for the remainder of the money, \$6,000?

Answer. No, sir; I cannot tell how that transpired.

Question. Who conducted that?

Answer. It was conducted through Mr. Cordova, Mr. Lapsley and myself; Mr. Cordova, on the part of Mrs. St. John. Certainly Mrs. St. John got the money, or she would not have signed it.

Question. Was any agreement made as to the respective interests of the parties in the purchase at the time that transaction was made—the time you got \$1,250, and Judge Hughes \$500; was any paper signed showing the respective interests of the parties in the purchase?

Answer. Yes, sir; there was an obligation. Mr. Lapsley holds the obligation, and I have a copy. Mr. Lapsley gave an obligation setting forth the interest. The legal title is in Mr. Lapsley.

Question. What was done then?

Answer. There was an article drawn up, which was signed, showing that Judge Watrous was to hold one-fourth interest, Thomas M. League one-fourth interest, and the Alabama party the other half interest.

Question. That was on the spot?

Answer. Yes, sir.

Question. Had that been agreed on previously between yourself and Judge Watrous?

Answer. Yes, sir; that Judge Watrous should hold one-fourth interest, and myself one-fourth.

Question. I mean, before Mr. Lapsley made this advance of money to the common account. Before you gave the deed to Mr. Lapsley, was there an understanding between yourself and Judge Watrous that he should be interested with you in the purchase?

Answer. Yes, sir.

Question. Did you not say that there was no arrangement made with Judge Watrous until after you had completed the matter in Alabama?

Answer. I meant this: that the matter was not finally completed until after I went to Alabama. I made a conditional sale with Mr. Price and Mr. Frow, in Galveston. What I alluded to was, that there was nothing final with Judge Watrous until after I made that sale with Mr. Frow and Mr. Price, in Texas.

Question. Then, Judge Watrous was to be interested with you?

Answer. Yes, sir.

Question. Up to that time, had Judge Watrous and you never talked about this title?

Answer. Never, sir. I was cautious of what I said to him.

Question. Had Judge Watrous never told you that the question on which it depended was pending in the State court of Texas?

Answer. Judge Watrous once spoke about the case of Tom McKinney. McKinney was living on an eleven-league grant, situated on Onion creek, the Santiago del Val grant.

Question. That was before the court in Texas?

Answer. Yes, sir.

Question. What did Judge Watrous say about that?

Answer. Whether Judge Watrous spoke to me before this or afterwards, I cannot remember.

Question. What did Judge Watrous say?

Answer. He said that there was a case in the supreme court of Texas; Hancock sued McKinney. He said that that case would be settled at the next term of the court, and that it would settle all of the eleven-league claims.

Question. Settle questions which might arise in your case in respect to your grant?

Answer. I cannot say certainly whether that came up; probably it did.

Question. Was that before you went to Alabama, or afterwards?

Answer. I think that conversation took place when we went to Alabama. I think it was on the boat going along.

Question. What was the question to be settled? Are you lawyer enough to tell?

Answer. Yes, sir. It was as to the validity of the grant; whether it was good or not. There was a condition to the grant—the condition of the payment of the money.

Question. It was the validity of the original La Vega grant?

Answer. It was the validity of the original eleven-league claim.

Question. Before you went to Alabama, did Judge Watrous ever refer to any pending question affecting the validity of that title?

Answer. For a certainty, I cannot tell. I think he did.

Question. To come to Selma again. You say that you did not expect any suits?

Answer. I did not.

Question. Did you not know that there was some doubt about the extent of land which those persons claiming under Williams or Mrs. St. John might occupy under their grants or deeds?

Answer. No, sir; because that was defined.

Question. There was no question?

Answer. I do not know. There is not a foot of land in Texas there is not a question about.

Question. You did expect a question?

Answer. There are questions about everything. What I mean is, that I did not expect a series of litigations.

Question. Did you expect any litigation?

Answer. I expect litigation on everything.

Question. You expected litigation?

Answer. I did not know but that there might be litigation.

Question. Because of the uncertainty of titles, and by reason of locations?

Answer. Yes, sir. If you go out, before you return you will have some squatters upon your land.

Question. Do you recollect whether there was litigation or not?

Answer. I think probably there was.

Question. Can you remember whether there was?

Answer. I cannot.

Question. If there were to be any litigations, who were to conduct them?

Answer. Judge Hughes.

Question. That was understood?

Answer. Yes.

Question. Then, you say that while you were at Selma, it was understood by all the parties, that if there were to be any law-suits or litigations in Texas, they should be conducted by Judge Hughes?

Answer. Judge Hughes was employed to examine the title. He was the attorney, and had the management of the matter, whatever it was.

Question. He was the attorney to investigate the title?

Answer. Yes.

Question. And if there were litigations, he was to conduct them?

Answer. I suppose that as he was employed in the first instance, he would have been for the balance.

Question. Was anything said about the court in which the suits were to be brought? Mr. Lapsley was a lawyer, and a citizen of Alabama, and had a right to go into the federal court—was anything said about the court, or the mode in which the suits were to be conducted, how they should be transferred, and where they should be transferred, and where they should go?

Answer. Nothing of the kind transpired in my hearing, while I was at Selma, because when I made the title to Mr. Lapsley, it was thought we would have no litigation. The cause of the title being put into Mr. Lapsley's hands was, that he paid all the money. I never paid a dollar for this land, to this day, nor has Judge Watrous either.

Question. The question I am asking you is, was anything said about the tribunal, in which any litigation might result, owing to the peculiar character of land titles in Texas, should be conducted—whether they should be in the State court or federal court?

Answer. My impression is, there was something spoken of it at the time. This case of Santiago del Valle was soon to come up, and to be decided, and the decision was looked upon as settling the question of our title?

Question. Who introduced the subject of that other question?

Answer. Mr. Lapsley and myself.

Question. Did you know about the question in regard to the eleven-league grant of Santiago del Valle?

Answer. Certainly, sir; it was notorious throughout the country.

Question. And it was supposed that that question would settle yours?

Answer. Yes.

Question. You all knew that the titles in Texas were precarious—that litigations must result from the eleven-league grants?

Answer. Yes, sir.

Question. You knew that there was no instance where litigation had not resulted?

Answer. Yes.

Question. And it was reasonable to suppose there would be litigation?

Answer. It was very likely.

Answer. Yes.

Question. Judge Watrous was to be interested?

Answer. Yes, sir.

Question. So that you could not try the suits in his court?

Answer. No, sir.

Question. That was mentioned, was it?

Answer. No, sir.

Question. Was any mention made in regard to the court or tribunal in which this litigation should be had?

Answer. None, sir; none that I know of. All I know is this—though how I got it I cannot say—that if there was to be any difficulty, Judge Watrous was very anxious it should be in the State courts.

Question. Did he express his anxiety on that occasion?

Answer. I cannot say whether he expressed it on that occasion; but it must have been sometime very near then—either after the tract was sold, or before it; I cannot bring my mind to that exact point.

Question. What was the first occasion that you recollect of Judge Watrous stating his anxiety that the litigation should be in the State courts?

Answer. It must have been some time about July, I think. I did not see Judge Watrous for some time afterwards.

Question. Then, it must have been before that time?

Answer. It does not necessarily follow that it was.

Question. You say you did not see him afterwards?

Answer. This deed was signed on the 9th day of July, at Selma. My impression is, that I left on the 10th or 11th. Whether it was on the 9th or the 10th day of July that Judge Watrous mentioned the matter, I cannot say.

Question. But, while at Selma, Judge Watrous did express his solicitude that the suits should be in the State courts?

Answer. That if any litigation arose in any matter, it should be in the State courts.

Question. Then, you must be able to state that the subject of the contemplated litigation was referred to there?

Answer. Only as the subject of all men's litigation might be. It may have come up in conversation.

Question. Who was present when Judge Watrous expressed that solicitude?

Answer. That I cannot answer; I do not know.

Question. Where was it? was it at Mr. Lapsley's office, or at the hotel, or where?

Answer. I cannot bring to mind the place.

Question. But you recollect the fact?

Answer. I recollect it confusedly. I would not say positively that such a thing ever did occur, but it continues in my mind that something of the kind occurred.

Question. Did Judge Watrous ever receive any of the money?

Answer. Not a dollar.

Question. From them, or from you?

Answer. He never paid or received a dollar of it in his life?

Question. You went north?

Question. Where did Judge Watrous go?

Answer. I left him at Selma. I know his intention was to go to his brother's, at Montevallo.

Question. When did you next go to Texas?

Answer. About the last of October or the first of November of the same year, I passed through Selma, and saw Mr. Lapsley there.

Question. Judge Watrous was not there then?

Answer. He was not present.

Question, (by Mr. Billinghamst.) When you left Selma, did not Judge Watrous go north with you?

Answer. He did not; I left him in Selma. I saw him in Philadelphia, I think, that same summer; I met him at the Washington House.

Question, (by Mr. Clark.) Did Mr. Lapsley, on your return, give any directions as to the tribunal in which any suit that might be necessary should be commenced?

Answer. I took for Mr. Lapsley, at that time, a paper to Judge Hughes.

Question. Was it a power of attorney?

Answer. No, sir, it was not.

Question. Did it relate to suits that might be necessary?

Answer. I cannot tell to what it related.

Question. Did you read it?

Answer. No; it was sealed, and what it was I do not know.

Question. And you did not inquire?

Answer. I did not inquire.

Question. You delivered it to Judge Hughes?

Answer. Yes.

Question. When you went to Texas?

Answer. Yes.

Question. When were any suits brought, if any were brought?

Answer. I think there were some suits brought to the January term afterwards.

Question. To the January term, 1851?

Answer. Yes.

Question. About what time were these writs issued?

Answer. That I do not know.

Question. Were you not the managing agent?

Answer. I was the managing agent—the disbursing agent.

Question. Disbursing for whom?

Answer. For Mr. Lapsley.

Question. You were his disbursing agent?

Answer. Yes.

Question. And Mr. Hughes was his professional agent?

Answer. Yes.

Question. What is that paper in your hand?

Answer. It is a private paper.

Question. Is it an account of expenditures made in connexion with this matter?

Answer. It is.

Question. Is there any account of a fee paid to Judge Hughes on the commencement of any new suits?

Answer. None at all.

Question. Did you instruct any suits to be brought?

Answer. I did not.

Question. Did you know of their commencement?

Answer. I suppose I did know of their commencement.

Question. Who attended to that part of the business—Mr. Lapsley was in Alabama, and the other gentlemen were in Alabama, and there was nobody in Texas interested but you and Judge Watrous; now, was it you or Judge Watrous that attended to the matter?

Answer. I attended to it all.

Question. And Judge Watrous did not?

Answer. He had nothing to do with it.

Question. Who instructed the suits?

Answer. Mr. Lapsley instructed the suits.

Question. If there were any parties on the lands against whom suits were to be brought, who found out their names and claims?

Answer. I must have found that out.

Question. You managed that part of the business?

Answer. Entirely.

Question. If any suits were brought, you directed them?

Answer. I directed them.

Question. Then, you are the man who instructed the suits, if any were brought?

Answer. Yes.

Question. Did you instruct the proceedings, or Judge Watrous?

Answer. Mr. Lapsley must have instructed them, by letter.

Question. Were they communicated to you, or directly to Mr. Hughes; did you communicate to Mr. Lapsley, and let him communicate to Mr. Hughes, or did you communicate directly with Mr. Hughes?

Answer. I suppose I must have informed Mr. Hughes.

Question. What information did you give Mr. Hughes?

Answer. I sent an agent on the land after I got home. He came back and reported to me certain persons living on the land.

Question. How many?

Answer. I think eleven, for there were eleven suits instituted.

Question. Did he give you the names?

Answer. I think the names were down.

Question. Did he give you the nature of the claims?

Answer. He did not.

Question. They held adversely?

Answer. They did.

Question. Did you instruct suits against these eleven persons?

Answer. I did.

Question. To whom did you communicate your instructions?

Answer. To Judge Hughes.

Question. Did you direct in what court they should be brought?

Answer. I did not direct him myself. I think the letter which I brought from Mr. Lapsley directed in what court to bring the suits.

Question. Did you remind him that Judge Watrous had told you, in Selma, that if there was to be any litigation, he desired it should be in the State courts?

Answer. I did not, because Mr. Lapsley was supreme in that matter.

Question. Did you talk with Judge Watrous about it?

Answer. I did not.

Question. Did you make any explanation to Judge Watrous why it was that his wishes, in regard to having the suits brought in the State courts, had not been complied with?

Answer. None whatever.

Question. You had not forgotten it?

Answer. I do not know that I had.

Question. You stated here to-day that while you were in Selma, before you left for the north, Judge Watrous told you that if there were to be any suits brought, he wished them brought in the State courts?

Answer. He did.

Question. You recollect it at this time?

Answer. I do, sir.

Question. You certainly could have recollected it in 1851?

Answer. Yes.

Question. Did it occur to you?

Answer. It did not.

Question. You instructed the suits?

Answer. I did.

Question. Did you know in what court they were brought?

Answer. Of course I knew.

Question. In what court were they brought?

Answer. In the United States court?

Question. In the court presided over by Judge Watrous?

Answer. Yes.

Question. And it did not occur to you that Judge Watrous had requested that the suits should not be brought there?

Answer. I suppose it did occur to me, but I supposed it was no business of Judge Watrous.

Question. Had he not an interest in the land?

Answer. Yes; he had a conditional interest in the land.

Question. Who has the largest interest in the land?

Answer. Judge Watrous' interest and mine are the largest.

Question. He is legally bound to pay his share of the purchase money?

Answer. Certainly.

Question. Had anybody a larger interest in the matter of the court than Judge Watrous himself?

Answer. None, sir.

Question. Then, why did you say that Judge Watrous had no interest in the matter of the suits?

Answer. I did not say that.

Question. Did you talk with Judge Watrous about it?

Answer. Never, sir.

Question. Were you intimate with him?

Answer. I was as intimate with him as a man can well be with a judge; there is a degree of reserve at all times.

Question. Did you tell Judge Watrous that it was proposed to commence the suits in his court?

Answer. No, sir.

Question. Was he informed of it in any way?

Answer. I do not think he was.

Question. Did Judge Hughes tell you in what court he meant to commence the suits?

Answer. Yes; I think he was instructed by Mr. Lapsley to commence them in the United States court.

Question. And he commenced them there?

Answer. Yes; I think that in the meantime Mr. Lapsley, perhaps, thought that our courts in Texas might make decisions of policy instead of law, and that he would try the highest tribunal, if any.

Question. These were actions of ejectment?

Answer. Yes.

Question. For the recovery of these lands that were held adversely?

Answer. Yes.

Question. How long did they remain in the court there?

Answer. I do not know.

Question. Who managed the business outside the professional conduct of the case?

Answer. I did.

Question. You brought the suits for the purpose of trying them?

Answer. I did.

Question. Did you expect to try them there?

Answer. I never had the slightest idea of trying them there.

Question. Where did you expect to have them tried?

Answer. I expected to have them transferred to the next district.

Question. When?

Answer. I was trying to get them removed, and to have them tried as fast as we could.

Question. When were they transferred?

Answer. They remained on the docket, kicking about one way or another, for a long time, much to my dissatisfaction.

Question. Why was that?

Answer. The counsel, on the side of the squatters, would make agreements, or say they would put up a judge to try them; and as it became evident that it was for the purpose of delay, I urged on the cases as fast as I possibly could. I know that I was very angry with Judge Watrous about it; I thought he did not do his duty.

Question. What did you think he ought to have done?

Answer. I thought he should have made some orders, or sent the cases away.

Question. The judge did not do anything to keep them there?

Answer. I do not know what he did.

Question. Did you talk with Judge Hughes about that?

Answer. I did.

Question. What did he say?

Answer. I do not know. I was angry with him, too.

Question. You were annoyed at the delays of justice?

Answer. Yes, sir.

Question. How long were they delayed that way?

Answer. The cases were brought in 1850, and they were tried in New Orleans last year, or the year before. I ordered them in 1850, and I think they were brought to the April term of 1851.

Question. They were some four years in the courts in Texas?

Answer. Yes.

Question. Why were they detained that length of time?

Answer. I do not know why it was. I know I was present in the court when the first case was called up.

Question. When was that?

Answer. That was at the spring term of 1851.

Question. What occurred at that time?

Answer. I was present when the case was called. Whether it was the first day, or the second, or the third of the term, I do not know. I think the first case called was against a man named Marlin. Judge Watrous observed that he could make no order in that case; that he was interested; that wherever Mr. Lapsley was a party he was interested in the case.

Question. Was he a relative of Lapsley's?

Answer. I do not know anything about that. There was something then spoken among the lawyers. Judge Hughes or some of them made use of an observation, at the time, that they would go on and prepare the cases, and get them ready for trial. Judge Watrous turned round and said, I would not touch them, sir, with a forty-foot pole. The reason why I remember these words is, that I thought they were undignified for a judge to use.

Question. You did not think it undignified for him not to interfere?

Answer. I do not know anything about that.

Question. You knew he was one of the principal proprietors?

Answer. That was all I knew of the matter.

Question. Were you ready for trial then?

Answer. That was my counsel's business.

Question. You do not know if you were ready for trial?

Answer. I do not know anything about it.

Question. Had you the witnesses ready?

Answer. The whole of the evidence was documentary.

Question. Had you seen the documentary evidence?

Answer. Yes, I had seen everything.

Question. Had you got the power of attorney there then?

Answer. That I cannot tell. I do not know whether it was or not.

Question. Had you any of the documentary evidence?

Answer. We had all the deeds.

Question. Had you ever seen the power of attorney up to that time?

Answer. I do not believe that Judge Hughes had the power of attorney then.

Question. Had Judge Hughes ever seen it up to that time?

Answer. I think not. Judge Hughes drew that power of attorney out of the general land office in Austin.

Question. Had Judge Watrous ever seen it?

Answer. He never has seen it up to this time.

Question. How do you know?

Answer. Well, he may have seen it while it was in the possession of Judge Hughes.

Question. When did Judge Hughes withdraw it from the land office?

Answer. I cannot tell; he must have withdrawn it some time in 1851 or 1852.

Question. He had it in Galveston?

Answer. Yes.

Question. Did you see it there?

Answer. I did. I will not fix the date when he withdrew it.

Question. That occasion when you were in court, and the case was called, was it subsequent to his getting the power of attorney?

Answer. No, sir. It was prior to his getting the power of attorney.

Question. Were you present at the trial at New Orleans?

Answer. I was.

Question. Were you a witness on that trial?

Answer. No, sir.

Question. Did you aid in the preparation of the case?

Answer. No, sir; I could not aid in the preparation of the case further than give my advice.

Question. Who disbursed the money to get the witnesses there?

Answer. I paid every dollar.

Question. What witnesses were brought there from Texas?

Answer. There were not any.

Question. Any from Mexico?

Answer. There were none from Mexico till the trial was over.

Question. On that trial in New Orleans, was the power of attorney, executed by the two Aguirres and De la Vega to Samuel M. Williams, produced?

Answer. Yes.

Question. Was it proved?

Answer. It was proved by a witness to the handwriting.

Question. Who was the witness?

Answer. The witnesses to the power of attorney were Narcisso Ortez and J. McMorale; it was signed before the rejidor Juan Gonzales.

Question. Who proved the execution of the power in the court at New Orleans?

Answer. I cannot tell. The power of attorney was admitted; but how, I cannot tell.

Question. Who had possession of it?

Answer. Judge Hughes.

Question. Were there any of the subscribing witnesses to the execution of the power there?

Answer. No, sir.

Question. You do not recollect what the proof was of the validity of the power?

Answer. I proved the power of attorney by James Hewitson, in Galveston, while the case was pending in New Orleans, and before the trial.

Question. How could he prove it?

Answer. James Hewitson proved it by swearing to the handwriting of the rejidor and of the assisting witnesses.

Question. Where is that power of attorney now?

Answer. It is in the court at New Orleans. As I came through New Orleans I wanted to get it. Colonel Love was speaking of taking on the books; and the clerk said, that in the event of the court having to get any papers from there, he requested him to speak to Mr. Taylor to allow him to send on a substitute, instead of him coming himself. That was as much as to say that he would not give the power of attorney to me, and consequently I did not ask him for it.

Question. Who was the clerk?

Answer. Mr. Gurley.

Question. Where was Hewitson from?

Answer. From Saltillo, Mexico.

Question. How did you get him to New Orleans?

Answer. I did not get him to New Orleans.

Question. How did you get him to Galveston?

Answer. He was passing through Galveston.

Question. How did he happen to be there?

Answer. He happened to be there on his own account.

Question. Did you meet him in the street, or did you send to Mexico for him?

Answer. He happened to be there.

Question, (by Mr. Billinghamst.) Was he a litigant in Judge Watrous' court?

Answer. He was.

Question, (by Mr. Clark.) Was he in attendance at court?

Answer. I think so.

Question. Had you seen the power of attorney at that time?

Answer. Yes.

Question. How did you know that he could prove the handwriting of the rejidor?

Answer. He had been living at Saltillo, and I asked him if he knew the handwriting. He stated that he did, and I took his testimony before a commissioner.

Question. Was he cross-examined, or was it *ex parte*?

Answer. I think it was *ex parte*.

Question. Then, the proof of the power of attorney on the trial at New Orleans was Hewitson's deposition to the handwriting of the rejidor, and of the attesting witness to the power?

Answer. It was a matter of judicial investigation at New Orleans.

The power of attorney was admitted by Judge Campbell and by Judge McCaleb.

Question. On that testimony?

Answer. No, sir; I think it was admitted on other testimony than that.

Question. What testimony was that?

Answer. I cannot tell; but I know very well that I was called up as a witness in the court to prove in regard to the power of attorney.

Question. What fact were you called to prove?

Answer. I cannot tell what I was called to prove; but when I got on the stand, objection was taken that I was interested. I disclosed my interest, and was excluded.

Question, (by Mr. Billinghamst.) Was Judge Hughes present?

Answer. Yes.

Question, (by Mr. Clark.) Who called you as a witness?

Answer. Judge Hughes.

Question. Were you examined on your *voir et dire*?

Answer. I was examined about my interest.

Question. By the other side?

Answer. I think it was by Judge Campbell.

Question. What fact could you have stated about the power of attorney?

Answer. That that was the power of attorney which Mr. Hewitson proved. That was all I could state.

Question. You could identify that as the paper in regard to which Hewitson testified?

Answer. Yes; and which was marked A.

Question. Was Judge Watrous in New Orleans during the holding of that court?

Answer. He was not.

Question. Was he in New Orleans at any time during the progress of these suits?

Answer. Never, that I was aware of. I never saw him there.

Question. Was there any question made at that time as to the validity of this power?

Answer. Yes, sir; a great many questions.

Question. Any question as to its genuineness?

Answer. Yes; they attacked it on the ground of forgery. They said it was a forgery, and I went to Mexico to prove that it was a genuine document.

Question. When did you go to Mexico?

Answer. Last year.

Question. Whom did you find there?

Answer. The judge, before whom the paper passed.

Question. What is his name?

Answer. Juan Gonzales.

Question. Did you take his deposition?

Answer. I took his deposition. I took him to New Orleans.

Question. In what suit did you take his deposition?

Answer. In the suits of Mitchell and Dunn.

Question. These suits are still pending?

Answer. They are still pending in the district court of New Orleans. There was but one case tried at New Orleans, and it was agreed that that was to be made a test case in the Supreme Court of the United States, and that all the other cases would be governed by it, provided it was decided on its merits. How the decision is I do not know.

Question. It was the Spencer case that was tried?

Answer. It was.

Question. Who went with you to Mexico?

Answer. John Trainor and Francis J. Parker.

Question. Did you see Hewitson there?

Answer. I did not, but Mr. Trainor did. I did not go to Saltillo myself. Mr. Parker and I went to Monterey, and stopped there. We went no further.

Question, (by Mr. Billinghamst.) Did Judge Watrous go with you?

Answer. He did not.

Question. How near to Saltillo did you go?

Answer. I went to Monterey. I think the distance between Monterey and Saltillo is something like ninety miles—a day and a half's journey.

Question. Did you send Trainor as your agent?

Answer. I sent him with the power of attorney.

Question. What instructions did you give him?

Answer. I instructed Mr. Trainor to go to Saltillo, to take that power of attorney with him, and to find out the witnesses to it, and see if they were living, and whether he could prove that power of attorney. Mr. Trainor speaks the Spanish well, and I do not understand it. He was given a great many other instructions.

Question. When you instructed Mr. Trainor to examine the archives, did you give him any instructions to procure an authentic copy or copies of any power of attorney he should find there?

Answer. I did not.

Question. Did you give him any instructions to examine the archives at Saltillo?

Answer. I did.

Question. You speak of this as a power of attorney; do you intend by that to convey the idea that it is an original instrument, the one actually signed by the parties?

Answer. No, sir; this is the testimonio, certified to by the judge, which is the second title, of equal validity with the first. It was so held in court.

Question. Did it never occur to you that that was important?

Answer. No, sir.

Question. To ascertain whether the original was in existence or not?

Answer. No, sir; I had the certified copy of the power there from the land office at Austin, and that was all I cared about.

Question. Did you instruct him as to whether there was a power of attorney there?

Answer. Yes, sir; I did.

Question. You say he did see Dr. Hewitson there?

Answer. He told me he did.

Question. Did Dr. Hewitson reside in Saltillo at that time?

Answer. Yes, sir.

Question. Did you pay Trainor for going?

Answer. I did.

Question. Did you pay Gonzales for going to New Orleans?

Answer. I paid his expenses.

Question. What was the expense to you of the procurement of Trainor and Gonzales?

Answer. The whole cost was something between \$5,000 or \$6,000. I speak of this trip to Mexico to get this testimony.

Question. That is what I speak of—did that cost between \$5,000 or \$6,000?

Answer. Yes, sir; I paid for expenses to Mexico \$4,173 72, and charged for my services \$1,250. That makes the total \$5,423 72.

Question. How much of that \$4,000 was to Trainor for his services?

Answer. I paid Mr. Trainor something like \$1,300.

Question. How much did you give Gonzales?

Answer. I found out that there was a difficulty in regard to the power of attorney at New Orleans. I had not the slightest idea in the world that there was anything in the matter but what was perfectly fair and right, and I thought that the power of attorney was perfectly fair. The first intimation we got of it was a copy of some testimony taken *ex parte*, which we knew nothing about, to show that that power of attorney in Saltillo was not signed by Tomas de la Vega or by Rafael de Aguirre. A copy of the power of attorney was sent to us by Mr. Gurley, the clerk of the court at New Orleans.

Question, (by the chairman.) Who do you mean by "us?"

Answer. Judge Hughes and myself. That was the first I knew of anything of the kind, and I then went to Selma, Alabama, to see Mr. Lapsley. There was still a case which was not tried at New Orleans, and Judge Hughes and I came to the conclusion that a matter of this kind, even after the cases were tried, would be likely to leave a bad impression on the minds of the judges, and that we should do away with any such impression. I went afterwards to Selma, and saw Mr. Lapsley. In conference with Mr. Lapsley, I concluded I had better go to Mexico. Mr. Lapsley then gave me a draft on New Orleans for something like \$2,500, which I took there and had cashed.

Question. How came you to think that you wanted so much money as that?

Answer. It was a long distance away up in the mountains, and I always want plenty of money when I go anywhere.

Question. What did you estimate it would cost there?

Answer. I could not state.

Question. How much did you ask Mr. Lapsley for?

Answer. I wanted more than he gave me.

Question. How much did you want?

Answer. I wanted \$6,000 or \$7,000.

Question. That was as much as you paid for the land?

Answer. It was my intention, as I wanted peace and quiet, to buy any outstanding claims that there might be. If there was difficulty about the title, I would have bought the title of La Vega.

Question, (by Mr. Billinghurst.) Did you have any attorney residing at New Orleans?

Answer. No, sir.

Question. Did you have any residing in Louisiana?

Answer. I had none nearer than Texas.

Question, (by Mr. Clark.) How much did you give Gonzales?

Answer. We paid Mr. Gonzales, I think, \$1,300.

Question. In addition to his expenses?

Answer. Yes, sir.

Question. Did you bring anybody else from Mexico?

Answer. He was the only man. First, I took Mr. Gonzales to Rio Grande City; it was the nearest point in Texas. He was an old man, and he had to have a carriage and horses to bring him there. We took his testimony.

Question. What did you take his testimony to?

Answer. As to this power of attorney. I took with me, when I went there, Mr. F. J. Parker, United States commissioner. The clerk of the court at Brownsville went with me as United States commissioner.

Question. You had not the original power of attorney?

Answer. I had the *testimonio*. I could not get the original power unless I took all the books with it. The original power remained in the office. After we got Mr. Gonzales to Rio Grande City we took his testimony; but as that kind of testimony which is taken *ex parte* is viewed with suspicion, and this was a matter of considerable importance, I thought that it would be much better if I could prevail on him to go to Louisiana and give in his testimony before the court there. I got Mr. Trainor to converse with him. While we were there, the steamboat came puffing up towards Rio Grande City. We told him that if he would go with us he would see a steamboat and a railroad, things which he had never seen. How prettily, he said, we can go on that boat and be taken to New Orleans. By talking with him in that way we got him to agree to go with us. He said that he had left some hides in his vats, which he was afraid would be lost. He was a tanner, and one of the old and wealthy men of Saltillo. His honor had been impugned, and he felt as much interest in this as we did. He said if this was perjury, that he was the man who had committed it, or was cognizant of it. He said that he wanted to show his children that he was a man of honor. I asked him what would be the cost of the hides—what he would lose if they were lost in his vats? He said some \$700 or \$800. I said that I would pay for the hides if he would come along. By that means we got him to Louisiana. He went to Louisiana, and gave in his testimony before the court, and he was cross-examined by the defendant's counsel, Mr. Clack. His testimony is now filed in that court.

Question. Did Judge Watrous ever advance any money towards the expenses of the suits?

Answer. He never spent a picayune for that purpose in his life.

Question. Did he give any money to Judge Hughes?

Answer. Judge Watrous had some suits. He had suits commenced in the State courts afterwards. I think Judge Watrous gave Judge Hughes some money.

Question. After that?

Answer. Yes, sir; after the first suits were brought.

Question. What were they about?

Answer. There were some suits about some land. There are suits pending in Waco about the same land.

Question, (by Mr. Taylor.) When did you first begin negotiations for the refusal of that tract of land?

Answer. Some time in the month of May or June, 1850?

Question. With whom?

Answer. Jacob de Cordova, agent of Mrs. St. John.

Question. Where does he live?

Answer. He is a travelling land agent.

Question. Where?

Answer. At Galveston.

Question. Who communicated with the parties in Alabama?

Answer. Mr. Shearer.

Question. Did you know any of these parties?

Answer. I never knew them.

Question. From whom did you receive the information which induced you to apply to them?

Answer. From Mr. Shearer.

Question. When did you first know Mr. Shearer?

Answer. I knew him first some time in the early part of that year. Mr. Shearer had just come from Alabama; I do not know exactly what time he came. My acquaintance with Mr. Shearer was not of a long standing.

Question. What connexion had Judge Watrous in referring you to those parties in Alabama?

Answer. The transaction took place in Judge Watrous' room.

Question. Had Judge Watrous any connexion or any influence in procuring those persons to engage with you?

Answer. They were acquaintances of Judge Watrous, and I presume that they had confidence in him.

Question. He gave you the opinion that those persons would be likely to enter into such a purchase?

Answer. I went into Judge Watrous' room; Mr. Shearer was sitting there at the time; he mentioned to me that there was a fine speculation, in reference to an eleven-league claim; there was, he said, a good deal of land scrip located upon it—between ten and eleven thousand acres of scrip. I believed that it was a safe investment—one that would win and could not lose, because, under the circumstances, the ten thousand acres of land would make it good. Speaking in that way, Judge Watrous said, "Ned, Price would go into that." Mr. Shearer said that he thought he would. There was some other conversation. From that remark Mr. Shearer wrote to Mr. Price. That is where I got it.

Question. Before you went to Alabama, did you pay any money?

Answer. Not a dollar.

Question. After this particular paper from Mrs. St. John, which Mr. Lapsley executed, to whom was the money paid?

Answer. The money must have been paid to Mrs. St. John or Mrs. St. John's agent.

Question. Where?

Answer. I cannot tell how it was.

Question. I see that the ratification of the power of attorney was signed in New York; was Mrs. St. John residing in New York?

Answer. No, sir; Mrs. St. John resides at New Canaan, Connecticut. I expect that she went to New York, because there was not a United States commissioner there.

Question, (by Mr. Clark.) You mean a Texas commissioner?

Answer. Yes, sir.

Question, (by Mr. Taylor.) Were you in Connecticut at that time?

Answer. I went as far as Philadelphia and no further.

Question. Who saw Mrs. St. John to pay her the money?

Answer. I cannot tell.

Question. Where was Mr. Cordova?

Answer. I left him in Texas. There were arrangements made between Mr. Price and Mr. Frow; they made some arrangements, but what they were I cannot tell. If I expected anything of this kind, I would have charged my mind with the matter.

Question. I understood from you that the money was to be paid to the party entitled to it after the execution of this paper?

Answer. Yes, sir.

Question. The money was paid?

Answer. Yes, sir.

Question. Through whom was it paid?

Answer. It was not through me.

Question, (by Mr. Clark.) You say that you gave securities; how were they delivered to you?

Answer. They were delivered to me when I went back to Texas. My obligation was good enough without anything more.

Question, (by Mr. Taylor.) She received money; who did she receive it from?

Answer. From her agent, I suppose.

Question. Who was her agent?

Answer. Jacob de Cordova.

Question. Was he in Texas or at the north at that time?

Answer. In Texas.

Question, (by Mr. Clark.) He gave you back your securities?

Answer. He did. I do not know how Mrs. St. John got the money. I have mentioned that I saw young St. John in Baltimore.

Question, (by Mr. Billinghamst.) Did they release you from your warrantee?

Answer. Yes, sir.

Question. When?

Answer. Before I went to Mexico. When I went to see Mr.

Lapsley, I told him of this difficulty, which was the first time he knew of it, or that I knew of it either. I told him that he had got me in a tight place with the warrantee. There was a meeting of all of the parties. I said to Mr. Lapsley that he had my warrantee, that such and such was the case, and that he must release me from my warrantee or buy me out; pay me for all my trouble; that one way or other I must get out of it; or else, I told him, that I would pay the full amount of indebtedness, and take it all upon myself. They kept me half a day conferring, and then they all sat down and gave me a release.

Question, (by Mr. Taylor.) You gave a species of warrantee to Mr. Lapsley; was there any instrument in writing by which Judge Watrous became also bound in that warrantee?

Answer. Nothing at all.

Question. Then, you were the only warrantor?

Answer. Yes, sir.

Question. Judge Watrous was to give you nothing in the event of your being made responsible?

Answer. Nothing at all. When I went back to Texas, and showed that I was released from that warrantee, I requested Judge Watrous to release me, which he did.

Question, (by Mr. Clark.) What occasioned you alarm?

Answer. To find a power of attorney in that manner, in respect to lands of the value of \$100,000 and odd, would alarm anybody. It would have broken me.

Question, (by Mr. Taylor.) I understand that Judge Watrous paid nothing?

Answer. Not a dollar.

Question. He came in because he indicated the persons who finally advanced the money?

Answer. He came in for that purpose.

Question. Then, in that warrantee there was no arrangement made by you by which you would be protected against the claim of Judge Watrous, who advanced nothing?

Answer. The moment I found myself in the scrape I took the means to get out of it. I did not want to lose \$100,000.

Question, (by the chairman.) Does that eleven-league grant measure out the ordinary quantity, or more than that?

Answer. I think it overruns a little.

Question. How much?

Answer. As near as I recollect, there is a bend in the river. Natural objects are called for, and it will overrun, I think, some ten or twelve thousand acres.

Question, (by Mr. Billinghurst.) Have you not had its area accurately surveyed?

Answer. I have had a survey made of it, but it is not a good one.

Question, (by Mr. Clark.) What is the value of those 58,000 acres, supposing that they overrun 10,000 acres?

Answer. They will average \$5 an acre.

Question. You have spoken of improvements ; who put them upon the land?

Answer. One fellow would squat, and put up a log cabin ; another would come along and buy him out. I cannot tell who put them on. There is not a single original squatter now upon the land.

Question. Have you ever sold any of the land?

Answer. Yes, sir.

Question. Who gave the deed?

Answer. Mr. Lapsley. He gave an obligation for a deed.

Question. To what extent have you sold?

Answer. Two thousand one hundred and forty acres, for \$5 an acre.

Question. That reimbursed the purchase money?

Answer. Yes, sir ; but the Mexican expenses were something like \$6,000. The expenses were heavy.

Question. Judge Watrous has never advanced any money?

Answer. Not a dollar. Mr. Lapsley is still in advance. I have been looking up an account which I intended to have settled. I am indebted to Mr. Lapsley \$657.

Question. On your share?

Answer. On the whole amount. I am disbursing agent. I have funds in my hands belonging to Mr. Lapsley of \$657.

Question, (by Mr. Billingham.) Was the release any part of the consideration for you to go to Mexico?

Answer. None at all, sir.

Question. During your four years' residence in Maryland, how much of your time did you spend in Texas?

Answer. Every winter.

Question. Were you there any summer?

Answer. No, sir ; I have left so soon as the weather got warm, and gone north.

Question. About what time is that?

Answer. About May or June. I would leave so soon as the traveling would get pleasant. I thought I would like to live there, but I soon got tired of it.

Question, (by the chairman.) You spoke of having received a copy of a deposition from the clerk at New Orleans. You received that in Galveston?

Answer. Yes, sir. It was sent to Judge Hughes, not me.

Question. Was Judge Hughes in Galveston at that time?

Answer. I think he was.

Question. What time was that?

Answer. It must have been in the month of April, 1857.

Question. You are certain that that communication was sent to Judge Hughes?

Answer. I think it was.

Question. Who did you consult as to the propriety of going to Mexico for Gonzales?

Answer. With Judge Hughes. I might have mentioned it to Judge Watrous ; I think I did. He called ; but whenever I attempted

to say anything to him, he would reply, "go to Judge Hughes; I have nothing to do with it."

Question. When was Mr. Hale employed in this case?

Answer. He was employed after we found there was this difficulty. I knew that Mr. Hale had been to Mexico several times, and that he had correspondents all through Mexico. I appealed to Mr. Hale, and he wrote to Mr. Trainor.

Question. You went with Mr. Trainor to Saltillo?

Answer. To Monterey. I did not go to Saltillo. Nobody went to Saltillo, except it was Mr. Trainor.

Question. Did Mr. Trainor, while there, examine the archives?

Answer. He told me that he did. He told me how they were.

Cross-examined for Judge Watrous by Caleb Cushing, esq.

Question. Have you any knowledge of a proffer of compromise having been made by Mr. Spencer, or any negotiation concerning a compromise coming from him?

Answer. Well, sir, Mr. Spencer and myself had not been on good terms. We had some time been parties litigant, and were not likely to be. During the absence of Judge Watrous, and after the suits had been determined, Mr. Spencer came to my house. I was astonished to see him. I asked him to take a seat. He said that he was tired of the litigation, and wanted, if he could, to have the matter settled. He wanted a compromise. I entered into negotiations with Mr. Spencer. I told him that I had no power whatever to compromise; that I was the agent of Mr. Lapsley, but not for that purpose. I told him that all I could do would be to write to Mr. Lapsley, and urge upon him to compromise the matter, for I was heartily tired of it. He was to come the next day. In the meantime the boat came up from down west, from Indianola, and Judge Watrous came on it. I went and conferred with him. I told him that Mr. Spencer had called, and wanted to compromise. Judge Watrous said, "I have no ill feeling towards the old man. I wish him well, but I would not compromise that case for every foot of land in Texas, for it would then be said that I had bought him off." I went and reported to Mr. Spencer, and I wrote no letter for him.

Question. Had there been, at any time prior to that, conversations between you and Judge Watrous in reference to a compromise of these suits; and if so, what has he said on the subject?

Answer. The only man I know of Judge Watrous gave a letter to for a compromise was Burrell Thompson. He lived on the land. He came from Austin to see me, and had this letter from Judge Watrous. In that letter Judge Watrous said that Mr. Thompson had been an old Alabama friend. He left the matter of compromise to me. We entered into negotiations. Thompson wanted to compromise for himself, and a Mr. Blankenship, and a Mr. Bidwell. I asked, as a compromise, \$8 an acre for his land; for Mr. Blankenship's, \$10; and for Mr. Bidwell's, \$12. We disagreed. He wanted to get it for about \$2 an acre. He was not an original settler, but had bought

from a squatter. They had all bought out squatters. They have all come in and bought the lands when these things have been in litigation. He threatened me with the law.

Question. Prior to that time, and during the pendency of the suits, did Judge Watrous express a desire for a compromise, or recommend a compromise of the suits?

Answer. I do not know that he did. I do not know that Judge Watrous ever recommended a compromise. He said that there was no use of it, because there was a case which would settle the matter, and the land was worth a great deal of money. We never doubted our title.

Question. Did you make any communication to Judge Watrous, after your return from examining the land, on the question whether there would be probable litigation in consequence of the occupation of the land by claimants?

Answer. No, sir; I did not expect, myself, there would be any litigation.

Question. What did you state to Judge Watrous on that subject?

Answer. I stated that Mr. Donohue was a tenant of Mrs. St. John's, holding under lease; that Mr. Picket claimed 320 acres, and a man named Sutton claimed 640, acres under titles from Mrs. St. John; that they might possibly have a fence or two running over the line, but that I did not think there would be any litigation about it. There were also two brothers by the name of Barton, who had their certificates located on the land, and they told me they would raise them. I had a conversation with another person that was there, and he told me that he was going away. Spencer was on the land at the time, but I did not know it. I did not see Mr. Spencer.

Question, (by Mr. Clark.) What amount of money have you paid Judge Hughes since the first purchase in 1850?

Answer. I cannot tell what Judge Hughes' supreme court fee is, because I have not seen Mr. Lapsley, and have not disbursed that part of the money.

Question. What have you disbursed?

Answer. I have paid Judge Hughes something like \$2,500.

Question. Has he any interest in the land?

Answer. Not a particle.

Question. Were Judge Hughes and Judge Watrous on terms of intimacy while the suits were pending in the United States court?

Answer. For some time they were not on the best of terms. I know that Judge Hughes got very cross several times.

Question, (by Mr. Evans.) Has the contract between yourself, Judge Watrous, and others, been recorded?

Answer. It has not been. It is certified before the judge's court. There are two contracts—that is, the contract is signed in duplicate. Mr. Lapsley has one, I have the other.

Question, (by Mr. Clark.) Judge Watrous has one, too, has he not?

Answer. No, sir; he never had any.

Question, (by Mr. Evans.) Is the power of attorney recorded in Texas?

Answer. The testimonio is recorded.

Question. Where?

Answer. At Waco, McClellan county.

Question. At whose instance was it recorded?

Answer. I sent it up there and had it recorded. I think I sent it up by Judge Hughes. The power of attorney could not be recorded with the one witness ; but Judge Hughes, in going up to try those Waco cases, saw Erasmus Seguin, and presented the power of attorney to him. He was an old man, and was conversant with all those old titles, and he proved the power of attorney by proving the handwriting of J. McMoran, and the signature of Ortey & Moran ; and, by these two proving it, it was admitted to record, and is on record.

Question. Where?

Answer. At Waco.

Question. When was it refused record there ?

Answer. Never.

Question. At Waco or at McClellan ?

Answer. It never was refused.

Question. When was Seguin's testimony taken ?

Answer. It never was taken, except to admit the power to record.

Question. When was that ?

Answer. That was since the suit at New Orleans.

Question. Give us the date as near as you can ?

Answer. It was a little before I went to Mexico.

Question. Can you give the year ?

Answer. I cannot.

Question. Was it recorded once or twice ?

Answer. It was recorded once. When Judge Hughes went to Waco, this last term of court, he took that power of attorney up with him. I wanted to have it recorded again, because it is now certified to by Juan Gonzales, and whether he recorded it or not I cannot say ; but the power of attorney is now at New Orleans, having been sent back in time for that suit.

Question. Did you ever send it to Waco by mail ?

Answer. I do not know whether I did or not.

Question. Try and recollect.

Answer. I may have sent it by mail, instead of giving it to Judge Hughes. I am confused about that ; I cannot tell how I did send it. I think Judge Hughes took it, but I think it came back from Waco by mail.

Question. Were you present in the court when the Ufford and Dykes case was tried ?

Answer. No, sir ; I do not know anything about it ?

Question. Were you in Galveston ?

Answer. I was.

Question. Where was this testimonio then ?

Answer. I had it in my possession.

Question. At Galveston ?

Answer. Yes, sir.

Question. During the trial?

Answer. Yes, sir.

Question. Do you know Ufford?

Answer. I know two Uffords; Asa P. Ufford and another Ufford.

Question. I mean the party in this suit against Dykes?

Answer. I cannot tell whether he is the party or not. I know two Uffords, and I presume one of them is the party; if it is Asa P. Ufford, I know him well.

Question. Did you know who were interested with him in that land?

Answer. I do not know.

Question. Do you know anything about Aguirre's tract of land?

Answer. I do not know anything about it; I had no interest in it?

Question. Do you know who has an interest in it?

Answer. No, sir, I do not.

Question. Who were the attorneys for Ufford?

Answer. Mr. Potter, and Allen and Hale were the attorneys; and Judge Hughes and another Hughes were the opposing attorneys in the Ufford and Dykes case.

Question. State what understanding there was between Herring and yourself in regard to the appeal of the Spencer judgment from the court at New Orleans?

Answer. There was none at all; I never had an understanding with him of any kind.

Question. Did you ever have any conversation with Herring with regard to compromises?

Answer. I had some conversation with Mr. Herring in regard to compromises which were to be effected with Burwell Thompson; but that was after the suit, and not before.

Question. Was that after the decision at New Orleans?

Answer. Yes, sir; I never before had any serious conversation with him?

Question. But after the decision, you say you had some conversation?

Answer. Yes, sir. Mr. Herring proposed, as the agent of Mr. Blankenship and of Mr. Burwell Thompson, to buy the league of land on which they lived, and we agreed to sell it to them for \$15,000, provided it was done in a certain time; \$5,000 was to be on an acceptance for some thirty days, and the balance on time. I supposed that the agreement would have been carried out, but it fell through.

Question. Was there anything said in regard to the appeal of Spencer?

Answer. Nothing at all.

Question. Or any of the cases?

Answer. None at all?

Question. Did you not know of the arrangement made by Mr. Frow, that no appeal should be taken in the Spencer case if he compromised on fair terms with Thompson and others?

Answer. I do not think there was any arrangement of the kind made. If so, I heard nothing about it; and I think if there was I

should have known it, because Mr. Plattenburg, Mr. Frow, and myself, were all there, and I think they would have told me.

Question. Were there any negotiations between you and Herring for the purchase of land?

Answer. None at all; nothing in the world but what was strictly honorable?

Question. Where is Judge Watrous' office in Galveston?

Answer. It is in a building belonging to me.

Question. Where is Judge Hughes' office?

Answer. It is close to the Tremont House; he first occupied a house belonging to me.

Question. Where was it the time you speak of going into his office?

Answer. It was in the same place it is now.

Question. Where was Judge Hughes' office?

Answer. In a building on the lot adjoining Judge Watrous'; both houses belonged to me.

Question. Did I understand you to say that you considered it an impropriety to speak to Judge Watrous about the case?

Answer. I did, sir.

Question. You therefore managed it through the medium of Shearer?

Answer. Oh, no, sir.

Question. Did you give Shearer any part of this land?

Answer. Not a particle.

Question. Yet you let Watrous in?

Answer. Yes, because Judge Watrous had brought me in connexion with these gentlemen.

Question. You state you had such an idea of the dignity of the judge that you would not talk to him?

Answer. Not so high an idea as that; I could talk to Judge Watrous of everything except in his judicial capacity.

Question. Did you speak to him about letting him into the speculation?

Answer. I think Judge Watrous spoke to me about it. I think he was the first to make the overture.

Question. On what conditions?

Answer. He was to take half of mine. Judge Watrous' and my joint note is out now for the amount of the purchase money; neither of us ever paid a dime.

Question. You thought there was some impropriety in speaking to the judge about the title?

Answer. Of course I did.

Question. But no impropriety in joining with him in a speculation?

Answer. That was a matter for himself; but I did not think of speaking with Judge Watrous about the title. If I were to hand a paper to Judge Watrous, and to ask him about the title, I think he should kick me out of his office.

Question. You had to approach him very delicately to get him into this?

Answer. No, sir, I did not approach him very delicately at all; I knew the qualities of the land, and everybody knew that that whole

country was located with these grants. I knew that all the conditions of the grant had been complied with, and I could not see where there would be any difficulty in regard to the title. I have got in my pocket now the receipt from the government for the government dues.

Question. Did you not agree to employ Herring as your counsel?

Answer. Never. How could I? Mr. Herring was the attorney on the other side.

Question, (by Mr. Clark.) Do you desire to state any other fact?

Answer. Not anything, except simply to state as regards my trip to Mexico, although I do not see how that has anything to do with Judge Watrous.

Mr. READY. If there is anything about which you have not testified, it is your duty to tell it.

WITNESS. I wish to say something on account of the enormous sum paid in Mexico. The money which I paid to these men was paid in this way: Not on their getting this testimony, or to get this testimony, but the amount was paid out and out, let them get the testimony or not. It was paid to them for their services, not for the purpose of their getting any testimony.

Question, (by Mr. Evans.) How do you explain the discrepancy between the amount specified in the deed—eight or nine thousand dollars—and the amount which you actually paid—\$6,000?

Answer. \$6,250 was the amount that I was to pay for the land. Then, there were some certificates located on it. I sold the land for \$7,000, making \$750 upon it. I thought I was not going to let them take the bargain off my hands without any profit.

Question, (by Mr. Clark.) Did Judge Watrous know anything about that?

Answer. Never till this minute.

Question. At what price did he take the land?

Answer. \$7,000.

Question. The same as the Alabama man?

Answer. Yes.

Question, (by Mr. Cushing.) Has Judge Watrous participated with you in any other purchase of land?

Answer. That is the only transaction of any kind, nature, or description, that Judge Watrous and myself have ever had in connexion.

Question, (by Mr. Clark.) Was your meeting with him on that occasion accidental or by appointment, when he suggested these Alabama gentleman?

Answer. It was purely accidental; I merely called upon him in the evening, as I would call on any other gentleman.

Question. Had you known the judge as a dealer in lands at all?

Answer. No, sir.

MAY 7, 1858.

The foregoing testimony being this day read over to the witness, he desires to make the following corrections:

Where I speak of a conversation with Judge Watrous as having occurred at Selma, or on the boat, it should be at Galveston. I mean the conversation in regard to the settlement of the title in the Santiago del Valle case, as referring to the establishing the validity of the La Vega grant, and as to Judge Watrous' stating that it would settle the title; and if any litigation should by any possibility arise, we would carry it on in the State courts, for that would settle the title definitely.

Question, (by Mr. Taylor.) At what time did the conversation you now speak of occur at Galveston?

Answer. I cannot fix the time as to a day. It was immediately on my arrival from my trip to see the land. I think it was in June, 1850; about the middle of the month, probably.

WITNESS continued: I wish to say that all the money I ever received at Selma was \$1,250, \$500 for Judge Hughes being included. I also desire to say that there were three Bartons—father and two sons. I only conversed with one of them, who promised me to raise the certificate. When I say I have the certificates of the ten or twelve thousand acres, I mean the surveys.

THOMAS M. LEAGUE.

SATURDAY, MAY 8, 1858.

Examination of Thomas M. League continued.

Question, (by Mr. Taylor.) How long have you known Mr. Hewitson?

Answer. I never knew Mr. Hewitson until I saw him in Galveston at the time he made that deposition.

Question. At what time did you learn that Mr. Hewitson was able to speak in relation to the handwriting of Gonzales?

Answer. It was at that time—the time I first saw him.

Question. Did you ascertain it for yourself, or hear it from another?

Answer. Judge Hughes ascertained it. I had nothing to do with it.

Question. At that time?

Answer. At that time, and at that time only. That was the first time Judge Hughes ever saw him, I believe.

Question. How many days was that before the deposition was taken?

Answer. It could not have been more than two days, perhaps it was the same day.

Question, (by Mr. Billingham.) Do you say that Judge Hughes knew nothing of Hewitson before that time?

Answer. Mr. Hewitson lives in Saltillo, Mexico, and was practicing there as a physician. I think that if Judge Hughes had known him, I should have known it.

Question, (by Mr. Taylor.) Can you state how you ascertained that Doctor Hewitson could prove this, or how Mr. Hughes ascertained it?

Answer. Simply from this fact, that Doctor Hewitson is an old

resident of Saltillo, Mexico; is married to a Mexican wife, and is a man of large means and influence there, and it was supposed that he knew these parties from being brought in intercourse with them. We were anxious to prove the power, and we made inquiries. We wanted to have it admitted to record, and were afraid to trust the power out of our hands. I kept it with rigid care, knowing that there was a great deal depending on it.

Question, (by Mr. Taylor.) And you made inquiries from him as coming from that quarter?

Answer. Yes.

Question, (by Mr. Clark.) You never knew before that Hewitson could prove the handwriting of Gonzales?

Answer. Never before.

Question. At what time did you first become a party plaintiff or defendant in Judge Watrous' court?

Answer. It must have been after the first Tuesday in July, 1850.

Question. Do you recollect the occasion?

Answer. Yes.

Question. What was the occasion?

Answer. The occasion was this: after I had changed my residence to the city of Baltimore, I became acquainted with James Power. I changed my residence, if I mistake not, about the last of April or the first of May, 1850. I made up my mind to remove to the city of Baltimore, and sent my family to the north. After they were gone, I became acquainted with James Power, while I was yet in Texas. He was an empresario of Power and Hewitson's colony. I was in Judge Hughes' office one day when Judge Hughes and Power were speaking over the business. Power had come up from his place on the Gulf, and was about changing his residence from Texas to New Orleans, so as to be able to bring suits in the United States court, because, he said, his interest was large, and he was afraid to trust the courts of that country. Hughes and he talked for some time while I passed in and out. Power said it would be a very great and heavy sacrifice for him to change his residence. One thing led to another, and I became interested with Power, and Judge Hughes interested with me. Judge Hughes was to do all the legal part of the matter, and I was to furnish all the money in Power's business. It was Power and Hewitson's colony, but Hewitson had sold out to Power.

Question, (by Mr. Billingham.) Was that Doctor James Hewitson?

Answer. Yes; it was understood at the time that Hewitson had sold his interest to Power.

Question (by Mr. Clark.) You became interested in Power's suits?

Answer. I did.

Question. And in the suits to be brought?

Answer. Yes; there were at that time large suits pending in the State court at Texas in the name of Power, but I also took on myself to carry on the whole business. Power's title was transferred to me. The only instrument that passed between us was a matter of litigation, and was passed upon by the Supreme Court of the United

States. These were the first suits of any description that I ever brought in Judge Watrous' court; whether the Lapsley suits or these were brought first or last, I cannot say.

Question. What did you do with the suits that were instituted in the State courts in the name of Power before this transfer to you?

Answer. I pursued them in the State courts. Some one, two, or possibly three, were dismissed by Judge Hughes, my counsel, and I paid costs.

Question. About how many suits were there in the State court in Texas pending in the name of Power, or of Power & Hewitson?

Answer. I think some seven or eight, three of which were dismissed.

Question. What disposition was made of the others?

Answer. They were prosecuted.

Question. To trial?

Answer. Yes.

Question. In the State courts?

Answer. Yes.

Question. How many suits were brought in the federal court by Judge Hughes in your name, as plaintiff, after your arrangement with Mr. Power?

Answer. I cannot tell; I think not more than seven or eight.

Question. Were these suits tried?

Answer. There was but one suit tried in Judge Watrous' court. As well as I recollect, it was the case of Thomas M. League against William H. Jones.

Question. Do you recollect any other suit than that in which you were plaintiff that was ever tried before Judge Watrous after May, 1850?

Answer. There was one other case that came to trial—Thomas M. League *vs.* Daniel D. Atchison.

Question. Did that suit result from your arrangement with Power?

Answer. It had nothing to do with it; it was totally isolated.

Question. Who instructed the suits which Mr. Hughes brought in your name as plaintiff, in pursuance of your arrangement with Power?

Answer. I have just explained that Hughes and I were partners, and he had as much power and authority as I. He did the legal part, and I furnished the money. He was equal with me, and was at liberty to do what he pleased in my name.

Question. Where was the Power and Hewitson colony?

Answer. It was within the littoral league, on the coast.

Question. Were you ever plaintiff in Judge Watrous' court in any land cases involving any other title than that of the littoral leagues?

Answer. Never.

Question. Were you in Judge Watrous' court during the trial of the case of Ufferd and Dykes?

Answer. I may have gone in; I cannot say that I was.

Question. What is your best impression?

Answer. That I was not there.

Question. Do you recollect the occasion of the trial?

Answer. Yes.

Question. Were you at Galveston during the progress of the trial ?

Answer. I was.

Question. Did you see Judge Hughes during the progress of the trial ?

Answer. I did.

Question. Did you see Allen and Hale, or either of them, during the progress of the trial ?

Answer. I saw Mr. Hale.

Question. Were you subpoenaed to attend as a witness, or requested to attend, at that trial ?

Answer. I was not.

Question. Had you in your possession at that time the *testimonio* to which reference has been had ?

Answer. I had.

Question. Where was the *testimonio* ?

Answer. In my possession, among my papers.

Question. Was that fact known to Judge Hughes ?

Answer. It was.

Question. Was it known to Mr. Hale ?

Answer. It was.

Question. Was the fact known to Judge Watrous ?

Answer. It was not.

Question. Did you furnish a copy of that *testimonio* to any person ; and if so, to whom ?

Answer. I did not furnish a copy.

Question. Was any copy of that *testimonio* taken ?

Answer. There was a copy which I saw, and I saw that copy compared with the copy in my possession.

Question. By whom was that copy taken ?

Answer. It was a copy from the general land office.

Question. Who compared that copy with the *testimonio* in your possession ?

Answer. Hughes, not Judge Hughes, but the other Hughes.

Question. Where was that comparison made ?

Answer. In Judge Robert Hughes' office.

Question. Who were present when that comparison was made ?

Answer. Robert Hughes and this other Hughes.

Question. Any other person ?

Answer. Not that I am aware of. I think not.

Question. Do you know of any reason why the copy was thus used instead of the *testimonio* in your possession ?

Answer. I held that *testimonio*, and would not permit it to go out of my possession ?

Question. Was any application made to you to attend in court with that *testimonio* ?

Answer. There was not.

Question. Can you give the date of that comparison of which you speak ?

Answer. It was within two or three days before the trial of the Ufferd and Dykes case.

Question. After your removal to Maryland, how long did you remain a citizen of that State?

Answer. Five or six years.

Question, (by Mr. Billingham.) During that time did you have your family at Galveston any portion of the time?

Answer. My wife went out with me one winter, and spent the winter there.

Question. Did you ever, during that period, lose your citizenship in Maryland?

Answer. Never. I voted there, and never voted elsewhere. I kept my house there, and my whole family there, and even took my servants there.

Question. Did you continue, during that whole period, to be occasionally a suitor in Judge Watrous' court?

Answer. In these Power cases—that is all.

Question, (by Mr. Clark.) I understood you to say, when you were examined a few days since, that on the occasion when Judge Watrous or Mr. Shearer, in his presence, first suggested that these Alabama gentlemen would advance the money necessary to enable you to complete the purchase from Mrs. St. John, that Judge Watrous said that a suit was pending in the State court which would determine the question of the validity of that title; did you say that, and did you mean so to be understood?

Answer. Whether Judge Watrous made use of that observation at that time, I cannot say. He did make use of that observation when I returned from having visited the land.

Question. Did you know at that time that the validity of the title depended in any manner on the validity of the power of attorney to which reference has been made?

Answer. Never; I had not the slightest idea.

Question. When did you, for the first time, become aware that the validity of the power of attorney would come in question?

Answer. Never until after the suit was decided against Spencer, in New Orleans, and until the testimony which they took in Mexico was sent to Judge Hughes, in Galveston. That was the first time that I ever had any doubt in reference to the power of attorney.

Question. Whom do you mean by "they"?

Answer. I mean the parties defendants—the squatters in the Lapsley cases.

Question. What rendered you so cautious as to the testimonio in your possession at the time of the trial of the Ufferd and Dykes cases?

Answer. Because I was afraid it might be lost. My title depended on it. I had the possession of it, and I intended to hold it. It could not have been taken from me, except it had been done at the extreme end of the law.

Question. Would not a copy from the land office answer the same purpose as the testimonio in your possession?

Answer. That is a question. Mr. Hale believed that it would; Judge Hughes that it would not; and hence he withdrew it from the land office. There were other copies taken from it. There are

various and divers copies of it. There is one copy filed in the same suit in New Orleans, taken from the land office in 1839, which proves that the power of attorney was in the land office in 1839.

Question. Do you know what Judge Watrous thought on that question?

Answer. No, sir; I never talked with him about it?

Question. Did you have any conversation with Judge Watrous in regard to that power of attorney before the time when you went to Mexico to obtain the attendance of Gonzales?

Answer. I did.

Question. When?

Answer. Not more than a day or two before I started for Alabama. A copy of the deposition taken in Mexico was sent to Judge Hughes; Judge Hughes sent for me immediately, and read it over. Some of it was in Spanish; but he made it out. As soon as I became apprized of it, I talked with Judge Watrous.

Question. What did you tell Judge Watrous?

Answer. I told Judge Watrous, speaking of this power of attorney, that they had got some testimony showing that La Vega did not sign the power of attorney, and that Rafael Aguirre did not sign the power of attorney, and that José Aguirre had signed the power of attorney, and I remarked that it was a very strange thing that there should be three men connected in the one power of attorney, one of whom, whose certificate was not located at all, and which called for no land, should have signed it, and that it should be legal as to him, and that as to the other two men who had got the lands it should be bad—said I, there is “dog” in it, certainly; there is some rascality in it. I forget what Judge Watrous said; I do not think I talked much with him.

Question. Where was this interview with Judge Watrous?

Answer. It must have been in Judge Watrous' room.

Question. Did you go there for the purpose of having an interview?

Answer. I did.

Question. How long did it last?

Answer. Not more than fifteen or twenty minutes.

Question, (by Mr. Billinghamst.) Did Judge Hughes go with you?

Answer. I do not think he did.

Question, (by Mr. Clark.) Can you not remember anything that Judge Watrous said—what advice he gave you?

Answer. He gave me advice to fathom it out, to see what it was. That there was something wrong in it, he was certain. That is about all the advice he gave me. I went for legal advice to Judge Hughes.

Question. But Judge Watrous was your associate?

Answer. Yes; but Judge Watrous had nothing to do in it.

Question. You went to see Judge Watrous on the subject because he was equally interested with you?

Answer. Yes.

Question. What course did he point out?

Answer. He pointed out this course to me: that there should be a

meeting of the Alabama gentlemen; that I should lay the matter before them to show them how it was, confer with them, and take what course they might advise.

Question. Had you then determined to go to Mexico?

Answer. No, sir; I don't think I had.

Question. When did you first determine to go to Mexico?

Answer. It was after my interview with these gentlemen in Alabama that I first determined to go to Mexico.

Question. Was the propriety of going to Mexico suggested during your interview with Judge Watrous?

Answer. I think it was.

Question. Did you know the probable expense attending the procurement of the attendance of Gonzales?

Answer. No, sir; I did not know whether he was living or not.

Question, (by Mr. Billingham.) Had you, before that time, heard whether he was living or dead?

Answer. I think I understood, before that time, that Gonzales was dead; I understood it some way or other; I do not know how.

Question, (by Mr. Clarke.) For what purpose did you contemplate going to Mexico at the time of your interview with Judge Watrous?

Answer. To prove my title.

Question. To procure the necessary testimony?

Answer. Yes; as it was a matter which would involve my honor, and I would fathom it out under any circumstances.

Question. Involve your honor with the Alabama gentlemen?

Answer. Yes, sir; not only with them, but with the world.

Question. You then went to Alabama?

Answer. I did.

Question. And while there you determined to go to Mexico, and raised the necessary funds?

Answer. I did.

Question. At what time did you make a computation as to the probable amount of the expenses attending the trip to Mexico?

Answer. In Alabama.

Question. Did you have any aid in that computation?

Answer. No, sir; I made it myself; I knew it would involve considerable expense, and whenever I travel anywhere I want plenty of money.

Question. Had you any experience which led you to make that apparently large estimate of expense?

Answer. My experience is, that it costs a good deal of money to travel; and particularly in a country like Mexico.

Question. For how long a period did you contemplate remaining in Mexico?

Answer. I thought I could perform the trip in three or four months.

Question. Were the means which you received in cash or in credits?

Answer. In cash. I received a draft from Mr. Lapsley on one of the banks in New Orleans for \$2,500.

Question. You returned then to Galveston?

Answer. I did.

Question. Did you acquaint Judge Watrous with the result of your interview with your Alabama associates?

Answer. I did.

Question. Did you give him all the particulars?

Answer. I gave him the substance.

Question. Did you suppress anything that occurred?

Answer. Nothing at all; there was nothing to suppress.

Question. Was it not your intention to tell him everything?

Answer. Certainly; there was no reason why I should not.

Question. Did you take from Judge Hughes any copy of the depositions taken in Mexico, impeaching the power of the attorney?

Answer. I took the substance, but not an exact copy.

Question. You noted down on paper the substance?

Answer. Yes, I noted it down, and submitted it to my Alabama friends.

Question. Did you note that from the deposition before you?

Answer. Judge Hughes noted it.

Question. Judge Hughes put upon paper the substance of the testimony taken in Mexico?

Answer. Yes; and I think that I added to it something.

Question. How much space did the statement occupy upon paper?

Answer. I cannot recollect. Not a great deal.

Question. Did you take that paper to Alabama?

Answer. I did.

Question. Did you have that paper with you during the interview you had with Judge Watrous, when it was suggested by him, or concurred in by him, that you should go to Alabama?

Answer. I cannot be positive; I think not.

Question. Do I understand you to say you did not show to Judge Watrous the memorandum which was made by Judge Hughes of the substance of those depositions?

Answer. I cannot be positive whether I did or not; I may have done so.

Question. Did Judge Watrous inform you whether Judge Hughes had or had not exhibited to him copies of the depositions impeaching the power of attorney?

Answer. I do not know whether he did or not. I cannot charge my memory.

Question. Had Judge Watrous been informed previously to the interview with you, of which you speak, that such depositions had been taken in Mexico?

Answer. I cannot say.

Question. Were you in Judge Watrous' court at the January term of 1857?

Answer. I think I was. I have been in Judge Watrous' court only two or three times during the last two years.

Question. Do you recollect any occurrence at that term?

Answer. Nothing at all.

Question. Do you know Mr. Atchison ?

Answer. I do.

Question. Did you see him there ?

Answer. I may have seen him ; I do not recollect.

Question, (by Mr. Billingham.) When you started from Galveston to go to Mexico, did you have any company from Galveston ?

Answer. None at all.

Question, (by Mr. Clark.) At the time of your interview with Judge Watrous, at which Shearer was present, and before you completed the purchase of the La Vega grant, did you seek, in any form, Judge Watrous' opinion as to the validity of the title ?

Answer. I never did in my life ; then, or at any other time.

Question. Did Judge Watrous express any other opinion in regard to the title than that the question pending in the State court, to which you have referred, would probably determine the validity of the La Vega title ?

Answer. That is the only thing he ever said in connexion with it, as to anything appertaining to the title.

Question. Do you recollect the title of the case in the State court, to which Judge Watrous referred in that interview ?

Answer. It was in the Santiago del Valle grant, the case of Hancock *vs.* McKinney.

Question. Was any other question, concerning the validity of the title to the La Vega grant, mentioned by Judge Watrous or by yourself at that interview ?

Answer. Yes, I mentioned this : that Allen and Hale had examined the title, and that Judge Hughes had examined the title, and that they had pronounced it a good title ; that it was good beyond doubt.

Question. Was any other question referred to by either of them ?

Answer. Nothing at all.

Question. Do you recollect what sum Judge Hughes charged you for the investigation of the title made on your retainer.

Answer. I do not know what sum he charged me, or whether he charged me at all ; he is my counsel, and I go to him to ask for advice.

Question. Did you mean to be understood that Mr. Hewitson was a stranger to Judge Hughes at the time his deposition was taken at Galveston ?

Answer. I do ; I believe he was. I believe Judge Hughes never saw him in his life before. Judge Hughes was his lawyer, and may have corresponded with him ; but I believe he had never seen him before.

Question. He was his attorney in suits then pending ?

Answer. I do not know that there were suits then pending ; I think not.

Question. Were you in the habit of attending Judge Watrous' court prior to the time that you became a party to suits pending there ?

Answer. I have been in and out of his court often ; I think I was a juror there once or twice, perhaps, before that time. The court-house is a very little distance from my dwelling. It belongs to me, and I rent it to the government.

Question. You are aware, I presume, that Judge Watrous contributed money for the purpose of having suits brought in the State courts against persons in possession of the La Vega grant?

Answer. Only what Judge Hughes told me. I do not know it of my own knowledge, but I know the suits are commenced, and I know I never have paid any money for them.

Question. Do you know whether that money was ever reimbursed?

Answer. I know it never was; it certainly was not by me, and I think it was not by Mr. Lapsley.

Question. Ought it not to be reimbursed; was it not an expenditure for the common interest?

Answer. I think not. It was an expenditure which I subsequently protested against. I thought it was a useless expenditure.

Question, (by Mr. Billinghamst.) Did you protest against bringing suits in the State courts?

Answer. No; it was done before I knew anything about it.

Question, (by Mr. Clark.) To whom did you thus protest?

Answer. I may have talked to Judge Hughes about it, and to some of my friends.

Question. To whom else; did you talk to Judge Watrous?

Answer. I think I did say something to Judge Watrous once about it. I am not positive, but I know I was angry about it, for I thought it a useless expenditure.

Question. Do you know the amount Judge Watrous contributed?

Answer. No, sir.

Question. Did you then know?

Answer. No, sir; I heard something about \$200 or \$300.

Question. Were you not informed of the purpose?

Answer. I cannot say.

Question. Was not the contribution made by Judge Watrous for the purpose of bringing these suits, a contribution for the common benefit, in respect of which he was fairly entitled to re-imbursement?

Answer. I should think he ought to be re-imbursed; I believe he did it from the best motives.

Question. Have you kept the accounts of the disbursements?

Answer. Yes; I have them in my pocket.

Question. Have you any account of this disbursement made by Judge Watrous?

Answer. I have not.

Question. Do you know when Judge Watrous made that contribution?

Answer. I do not know.

Question. Can you state the time when you first heard that Judge Watrous had made that contribution?

Answer. I cannot.

Question. With your views on the subject, did you never express any surprise to Judge Hughes that he should have taken \$200 from Judge Watrous for such an unnecessary purpose?

Answer. No; if Judge Watrous had a mind to pay \$1,000, I suppose it was none of my business.

Question. You were to pay *pro rata*, if it was a fair disbursement?

Answer. I do not think he had a right to disburse anything. I was the disbursing agent. I certainly never talked with him in regard to the matter.

Question. How many suits were brought in the State courts?

Answer. I cannot tell you anything about these suits. I know they are pending still.

Question, (by Mr. Cushing.) How many cases, if any, are remaining in Judge Watrous' court, in which you are a party litigant?

Answer. I have but one single solitary case remaining at the present day in Judge Watrous' court.

Question. What is the subject matter of litigation in that suit?

Answer. It is for a house and lot in the city of Galveston.

Question. What is the question of law involved in that suit, if any?

Answer. It is as to the statute of limitations, I think.

Question. Who is the defendant in that suit?

Answer. Daniel D. Atchison.

Question. How many suits in which you were a party have been tried in Judge Watrous' court?

Answer. Only one, I think.

Question. What was that suit?

Answer. Thomas M. League *vs.* William H. Jones.

Question. Do you know of any suits in Judge Watrous' court in which Dr. Hewitson is a party?

Answer. I think there is.

Question. What suit or suits?

Answer. Power and Hewitson were partners. Hewitson sold out to Power. There was some little difference, I think, in regard to the transfer to one tract of land, which was not altogether full and complete. The legal title, I believe, was in Hewitson, and a suit was brought in Hewitson's name, I think, for Power's benefit.

Question. What were the personal relations between Judge Watrous and Judge Hughes at the time of the trial of Ufferd against Dykes?

Answer. My impression is that they were not on the best of terms.

Question. What were their relations at the time you went to Mexico, in reference to the Gonzales certificate to the power of attorney?

Answer. They were not on terms.

Question. Do you know how much intercourse, if any, they had together at that time?

Answer. They were unfriendly; they were not on terms. I know the cause of their falling out, and thus I fix the time.

Question. If you know, state down to what time these unfriendly relations continued?

Answer. I do not know that they are friendly yet. They certainly were not friendly when Judge Hughes left Galveston last winter, to come on here to the Supreme Court.

Question, (by Mr. Clark.) Can you fix the date of the commencement of their unfriendly relations?

Answer. Yes; they fell out at the time Judge Watrous rendered

an opinion in Texas, following the supreme court of the State in relation to the littoral League question. He had formerly decided the other way, and when the supreme court decided, he reversed his decision and followed the supreme court.

Question. Do you know the title of the case in which that decision was made?

Answer. It was my own.

Question, (by Mr. Cushing.) Who was your counsel in that case?

Answer. Judge Hughes.

Question, (by Mr. Clark.) Then the decision in that case was adverse to Judge Hughes?

Answer. Yes, sir, and to me too.

Question. And that produced the difficulty between your counsel and Judge Watrous?

Answer. Yes.

Question. Did it produce any between you and Judge Watrous?

Answer. I have no feeling about it; I felt very sore, but it did not make any difference in our relations. I think the decision was in the case of Thomas M. League *vs.* Jones.

Question. Was that ruling of Judge Watrous at the trial, before a jury, or was it subsequently to the trial?

Answer. It was a ruling at the trial.

Question. What you mean to say is this, that the difference between Judge Watrous and Judge Hughes grew out of a ruling, made by Judge Watrous, on the trial of the suit of League *vs.* Jones?

Answer. Yes; it was one of my cases; I will not say positively that it was the case of League *vs.* Jones.

Question. What year was it?

Answer. I do not know.

Question. Had any efforts to compromise with any of the persons, claiming possession of any portion of the La Vega tract, whose alleged rights you did not recognize, been made prior to the removal of the Lapsley cases to Austin?

Answer. Nothing further than this, that when the marshal went to serve the writs, I told him to see from the adverse parties what they would do, if they would do anything; I never got any return to that; that is all.

Question. Was the fact of Judge Watrous having an interest in that tract of land notorious in Texas at the time these suits were brought?

Answer. I cannot say that it was. I knew it at the time the suits were brought.

Question. Was it generally known?

Answer. I think it was not known until he divulged it from the bench, when the cases were called up.

Question. Was it kept secret?

Answer. Oh, no; there was no secrecy.

Question. Was it known to the occupants of the land that he had an interest in it?

Answer. That I do not know; I cannot tell whether it was or not.

Question, (by Mr. Billinghamst.) When you instructed the marshal, before he went on the land, did you inform him that Judge Watrous had any interest in it?

Answer. No, sir, not that I recollect.

Question, (by Mr. Clark.) Were you aware of Judge Watrous' great reluctance to have these suits brought in the federal court?

Answer. I was.

Question. When did you become aware of that reluctance on the part of Judge Watrous?

Answer. After the suits were brought.

Question. Had you no previous knowledge on the subject?

Answer. None at all.

Question. Had Judge Watrous ever stated to you that it was his wish that any suits which you might find it necessary to bring against the occupants of the La Vega tract should be in the State court?

Answer. Yes.

Question. When?

Answer. That, I think, was a subject that was talked about, very likely, before we left Galveston to go to Alabama.

Question. Did you talk with him in Alabama about it?

Answer. I might have talked with him in Alabama about it.

Question. Were you aware of the commencement of the Lapsley suits at the time of their commencement?

Answer. Certainly, I was.

Question. Had you been, previously to that time, apprized that Judge Watrous was reluctant that the federal court should be employed for the prosecution of these suits?

Answer. Yes.

Question. Had you been, previously to that time, apprized that Judge Watrous had paid any money to Judge Hughes to bring suits in the State courts?

Answer. I know that he had not.

Question. Was Judge Watrous apprized of the bringing of these suits in the federal court?

Answer. He was not, to the best of my knowledge.

Question. When, to the best of your knowledge, did Judge Watrous first become apprized that these suits has been instituted?

Answer. I think after they were on the docket—on the calendar?

Question. And you do not believe that Judge Watrous ever knew, until these suits came before him for trial, that they had been brought at all?

Answer. He did not, to the best of my knowledge. He may have known it, but I do not know that he did.

Question. Why did you not explain to Judge Watrous the reasons for the institution of these suits in the federal court, knowing, as you did, that he was unwilling that that court should be employed for that purpose?

Answer. That was a matter for Judge Hughes and Mr. Lapsley. I had nothing further to do with it than disbursing the money.

Question, (by Mr. Ready.) Was Judge Watrous at Galveston or in Texas at the time these suits were brought?

Answer. I think he was not.

Question. Where was he?

Answer. My impression is that he had not returned from the north.

Question. Can you give the date when these suits were instructed to be brought?

Answer. The instructions must have been given to Judge Hughes after my meeting Mr. Lapsley in Selma, about the last of October or first of November, 1850.

Question, (by Mr. Clark.) Did you give instructions to the marshal at the time of the service of the process?

Answer. I gave instructions to him at the time he went up to serve the process?

Question. When was that?

Answer. I cannot tell. It was just before the service of the writs.

Question. Was Judge Watrous at Galveston at that time?

Answer. I cannot say. I had no conversation with Judge Watrous about it. My impression is that he was.

Question. If he was there, and you knew, as you say you did, of his reluctance to have the federal court employed for the purpose of these suits at all, why did you not communicate with him on the subject?

Answer. Because I did not think it was any of his business. I thought it was a matter which was taken entirely out of his hands.

Question. Did you think it any of your business?

Answer. Yes, I did.

Question. Was it not as much Judge Watrous' business as yours; had he not the same interest in the lands?

Answer. He had the same interest in the lands; but I was appointed for an express purpose by Mr. Lapsley, and by all the parties.

Question. Was it one of those purposes to bring these suits?

Answer. That was a matter that belonged to Judge Hughes. It was for me merely to advise with him, and see that the matter went on.

Question. Did you not designedly conceal from Judge Watrous the fact that these suits had been brought in his court?

Answer. I did not designedly do it. There was no deceit about it.

Question. Did you not designedly omit to tell him?

Answer. No, sir.

Question. Then it was only through inadvertence?

Answer. It was only because I did not care.

Question, (by Mr. Billinghamst.) Did Judge Watrous, equally with the Alabama gentlemen in interest, know of your general agency?

Answer. He did.

Question, (by Mr. Ready.) Who employed Judge Hughes to bring the suits?

Answer. Mr. Lapsley employed Judge Hughes through letter. He was the man who had examined the title.

Question. From whom did Judge Hughes receive his instructions in pursuing these suits?

Answer. From Mr. Lapsley.

Question, (by Mr. Clark.) How came you to state that you did not believe that Judge Watrous had any knowledge that these suits had been, in fact, brought in the federal court before they came before him on the calendar, when he declared his interest?

Answer. I never mentioned the fact to him. I could see no impropriety in it. If there was, it would have been a different thing.

Question. Could you see no impropriety in bringing suits in Judge Watrous' court, and holding them there, and going on effecting settlements with the defendants?

Answer. Very great.

Question. Why not have communicated the fact to Judge Watrous. You might have saved him all this difficulty?

Answer. Very likely I might, and very possibly it was through me he got into this difficulty.

Question. You did not communicate the fact to him?

Answer. Not that I am aware of. I do not know that Judge Watrous was in Galveston at the time of bringing the suits. If he was, he could not have been there more than a day or two. I cannot fix it in my mind at all. Very likely, if I had been in conversation with Judge Watrous, I should have told him. I saw no cause for concealing it.

Question. Why did you not record in Texas the paper executed in Alabama for that purpose?

Answer. It was just simply this: that I did not wish to encumber the record with a multitude of names. For instance: the suits would go on in the name of John W. Lapsley, instead of in the names of Lapsley and League, and Frow and Plattenburg and Watrous, &c. It was just to simplify it.

Question. Was that one of the reasons why the title was taken to Lapsley alone?

Answer. Yes, sir; I should judge that was the main reason.

Question. Was that subject ever discussed in your presence?

Answer. I do not know that it was; it may have been.

Question. Was it?

Answer. I think it was.

Question. Where?

Answer. At Selma.

Question. Who were present?

Answer. Mr. Lapsley and myself. If it was discussed at all, it was discussed in our company.

Question. With Judge Watrous?

Answer. Judge Watrous was in the room. He and Mr. Plattenberg were sitting on the sofa, all the time, talking about old times in Alabama.

Question. Judge Watrous was as much interested in the matter as you were?

Answer. Yes.

Question. Do you mean to say that Judge Watrous was not a party to the whole discussion, and the whole transaction there ; do you mean to impress that on the committee ?

Answer. I mean this : I mean to impress on the committee that everything that was carried on in the matter as to the sale of the lands was carried on between Mr. Lapsley and myself. The whole discussion in Frow's room, where this instrument was drawn up, was of a general character. We discussed many things. This may have come up and Judge Watrous may have heard it. He was in the room for the most of the time, sitting on the sofa with Mr. Plattenberg, talking over old matters. But there was no concealment ; no desire for any concealment, or no idea that anything was wrong.

Question. Did you not regard the matter as an important one, in whom the legal title should be vested ?

Answer. No, sir. I would just as soon that the legal title should have been vested in Mr. Frow, or Mr. Plattenburg, or either one of their company, as in Mr. Lapsley.

Question. And each of them, in view of their common contributions, had the same right to have the title vested in him ?

Answer. Of course he had.

Question. And I understand you that the title was taken to Lapsley alone to facilitate the bringing of the suits ?

Answer. Certainly.

Question. And that was about the time that the \$500 was paid to Judge Hughes ?

Answer. Yes ; I got the \$500 for Judge Hughes.

Question. Do you mean to say that Judge Watrous was not cognizant of that part of the arrangement—about the \$500 ?

Answer. He knew nothing at all about it.

Question. Why not ?

Answer. Because we had not conversed with him about it.

Question. Was it concealed from him ?

Answer. Not at all ; there was no reason for concealing it from him. That was a mere transaction between Judge Hughes and myself.

Question. Was it known to Lapsley ?

Answer. It was known to Mr. Lapsley when I presented the draft. I suppose that that was a matter arranged between Mr. Price and Mr. Frow, and Judge Hughes, before they left Texas. I knew nothing about it.

Question. Do you mean to say that Judge Watrous did not know that Judge Hughes was to be entrusted with a prosecution of those suits ?

Answer. There were no suits thought of at that time. Mr. Hughes gave me that draft for \$500 at Galveston ; and at Selma he knew nothing of the bringing of these suits at all. At that time there were no suits, that I am aware of, to be brought, because they expected no litigation.

Question. Did you not say, a few moments ago, that while in Ala-

bama, the subject of vesting this title in Mr. Lapsley was the subject of discussion?

Answer. To simplify it. After we got the lands, when we divided our respective interests, the title was in Mr. Lapsley.

Question. Did you not say, that while in Alabama the advantage of vesting this title in a single party was referred to?

Answer. I said that there may have been a conversation to that effect.

Question. Do you mean to say there was not a conversation to that effect?

Answer. I do not know whether there was or not. My impression is that there was.

Question. If there was, was not the subject of suits referred to?

Answer. Mr. Lapsley was the trustee who held the title for the respective interests of all parties.

Question. If the agreement executed at Selma for the purpose of being recorded in Texas had been recorded there, would not Mr. Lapsley still have been the trustee, and still hold the legal title, and therefore be the sole plaintiff in the suits?

Answer. I suppose he would.

Question. Could not that paper have been recorded, and the suits brought in the name of Lapsley alone?

Answer. I do not see the necessity of recording that paper. It was not a title to convey the lands at all. It was a mere obligation.

Question. When you were at Selma, were you conscious of the danger of the institution of these suits in the State courts, owing to the local prejudices that might arise; had you then experience of them?

Answer. Oh, yes; certainly.

Question. Did you communicate that at Selma to the Alabama gentlemen?

Answer. They had conversed with Judge Hughes; they had paid him \$500 for his opinion for examining the title, looking at it, searching the law, &c.

Question. Had Judge Hughes, at that time, given an opinion that the federal court was the safer of the tribunals?

Answer. That I do not know. Judge Hughes always maintained that these eleven-league titles would be maintained.

THOS. M. LEAGUE.

TUESDAY, MAY 11, 1858.

Explanation of testimony by Thomas M. League.

“Question. If you know, state down to what time these unfriendly relations continued?

“Answer. I do not know that they are friendly yet. They certainly were not friendly when Judge Hughes left Galveston last winter to come on here to the Supreme Court.”

When I spoke of the difficulty between Judge Hughes and Judge Watrous, I meant to say that they were unfriendly until the time of the last Brownsville court, which was in October or November, 1857. Judge Hughes informed me that he was convinced that he was wrong. A reconciliation took place at Brownsville.

“Question, (by Mr. Clark.) Were you aware of Judge Watrous’ great reluctance to have these suits brought in the federal court?”

“Answer. I was.”

I have to say, in explanation of that, that never, in all the course of this matter, did I ever mention anything to Judge Watrous in any manner touching the bringing of these suits in the federal court until after the suits were brought, and he had disclosed his interest from the bench. He was angry about it. He spoke in some way to me about it; the exact words I do not recollect.

“Question. Why did you not record in Texas the paper executed in Alabama for that purpose?”

“Answer. It was just simply this, that I did not wish to encumber the record with a multitude of names. For instance, the suits would go on in the name of John W. Lapsley, instead of in the names of Lapsley, and League, and Frow, and Plattenberg, and Watrous, &c.”

This paper, I have to say in explanation, was a mere obligation, and one which, if I took it for that purpose, it is doubtful whether it would be recorded. It was a mere obligation when such a thing was done. I arrived in Galveston about the middle of October or the last of November, 1850. I did not know at the time that these writs were returnable in January. There were only two months in which to record that instrument, if I were so disposed. After the suits were brought, I then thought that I would not put it upon record, because I would not give a stick to break my own head with.

Question, (by Mr. Clark.) Explain how the recording of that paper was going to be a stick to break your head?

Answer. The recording of that paper after the suits were brought would not, I suppose, have affected legally our title, but that would have been a matter for pleas. That was fully felt in New Orleans, where they encumbered the record, but were afterwards stricken out by Judge Campbell.

Question. I understand you to say that, after bringing the Lapsley suits in Judge Watrous’ court, you determined not to record the instrument executed in Alabama, for fear that it might create embarrassment; is that your idea?

Answer. Yes, sir.

Question. Where did you expect, then, that these cases would be tried?

Answer. They would have to be tried in the nearest adjacent circuit. They could not be tried in Judge Watrous’ court.

Question, (by Mr. Billingham.) After your return to Galveston in 1850 did you not send an agent to find who were upon the lands before you brought the suits?

Answer. I do not know whether I sent an agent or not. I may have done so, but I think I derived my information by letter. I had

my business agents, who were travelling over the country ; whether I derived the information from them, I cannot tell. My impression is that I derived it by letter, but whether the letter was addressed to me or Judge Hughes, I cannot say. I stated before that I had sent an agent. I may have sent an agent. I have a great many lands in Texas, and I know that I have sent agents to them.

Question. Did you send an agent to the lands before you derived the information?

Answer. I am inclined to believe that I did.

Question. Why did you not, then, send the agreement to be recorded?

Answer. I could not record it in the county where the lands lie. It was not an instrument that could be admitted to record. It would be a mere favor if it would go to record in our counties. I have not read that instrument since 1850, from the time it was signed up to this day.

“ Question. With Judge Watrous?

“ Answer. Judge Watrous was in the room, and he and Mr. Plattenberg were sitting on the sofa all the time, talking about old times in Alabama.”

I want to state, in explanation of that, that Mr. Frow's room is a very large one, a remarkably large one. Judge Watrous and Mr. Plattenberg sat on a sofa at the extreme end during all the time, and I do not know that Judge Watrous' attention was called, in any manner, to our conversation until at the time of my reading over the document. I made a remark then, which I recollect distinctly, “That is too tight, Mr. Lapsley.” I emphasized those words, and they were, as I have said before, in reference to the guarantee. That attracted Judge Watrous' attention. I spoke to Judge Watrous that I never gave a warrantee obligation. He said to me, at the time, that there was no difficulty ; that the title was good beyond a doubt ; and that even if there was difficulty we had between 10,000 and 12,000 acres of land located upon it which were safe beyond all doubt. I had a great mind, at the time, to throw up the whole trade and go off. I came near doing it, but, finally, I signed the paper.

“ Question. I understand you that the title was taken to Lapsley alone, to facilitate the bringing of the suits?

“ Answer. Certainly.”

In answer to that question I should have said that no suits were contemplated at that time. The reason for putting the title in Mr. Lapsley was this : Mr. Lapsley and his Alabama friends advanced all the money, and it was put in his name, so that when any sale of the lands was made, Mr. Lapsley, being present, could make the title without having to go all over the State to get his partners to sign. He was trustee for the benefit of all.

There is one thing, in addition, which I would like to say, and that is touching the proposed compromise. Mr. Spencer proposed to me that if we would compromise with him, he would come here and have the case dismissed. He said that he did not care for any of the parties, so that he could get a good compromise for himself. I men-

tioned, at the time, that the suit against him would have to go on ; that I had no power to compromise in any way. I told him that his suit would have to go on, even if a compromise were made with him, because his was the test suit. His was the test suit and would have to go on to judgment, and we did not want to compromise it on any such grounds.

Question, (by Mr. Clark.) Did you ever compromise with any of the occupants of the La Vega tract prior to the removal of the suits from Austin to New Orleans ?

Answer. I have never made any compromise of any kind, nature, or description whatever, since we have been owners of the land.

Question. Did you receive any propositions for a compromise of any of the cases prior to their removal from Austin ?

Answer. I have received various propositions, but when, I cannot be certain.

Question, (by Mr. Billingham.) You say that you have made no compromises, have you made sales of the lands to the defendants ?

Answer. I have made sales, but with no view to a compromise. I sold the land for what I believed it was worth.

Question. To the defendants ?

Answer. My impression is that they were not defendants.

Question, (by Mr. Clark.) Did you make any sales to parties, either in possession or who claimed possession, prior to the removal of the cases from Austin ?

Answer. None whatever.

Question. Did you negotiate with any of the parties in possession, or claiming possession, prior to the removal of the cases from Austin ?

Answer. None at all. None after the service of the writs.

By Judge Evans.

Question. You stated that Mr. Spencer proposed those terms to you ?

Answer. Yes, sir.

Question. You informed Judge Watrous, and he stated that he would not compromise with Spencer ?

Answer. I did. Mr. Spencer made this proposition to me in the absence of Judge Watrous. Judge Watrous returned on the boat from Indianola in the morning. I mentioned the matter to him, and he peremptorily refused anything like a compromise.

Question. When was that ?

Answer. Mr. Spencer left the next day on the boat to come here. That must have been the last of October or in November, 1857. As to the date, I cannot be certain. It was the last night he spent in Galveston before he came here.

Question. You have stated that a land office copy of the power of attorney, bearing date 1839, is upon file in the district court at New Orleans ?

Answer. It is. I saw it there as I came through.

Question. In what suit ?

Answer. The suit of John W. Lapsley *vs.* Mitchell and others.

Question. Who obtained that copy from the land office?

Answer. I cannot say.

Question. Where did you obtain it?

Answer. I obtained it from William G. Hale, of the firm of Allen & Hale, Galveston.

Question. Do you know how Mr. Hale obtained it?

Answer. I do not know anything about it.

Question. Did you not, after January, 1852, and previously to the deed in trust executed by Judge Watrous to Butler, inform Butler that Watrous had no interest whatever in the land?

Answer. I did not inform him of any such thing.

Question, (by the chairman.) Did you ever inform Mr. Butler, at any time, that Judge Watrous had no interest in that land?

Answer. No, sir.

Question. Did you inform anybody that Judge Watrous had no interest in that land?

Answer. I do not know. People are prying into others' matters, and it may be that I have said something of the kind; but I have never done so with any view of concealing his interest.

Question, (by Mr. Ready.) Have you any recollection of having said so?

Answer. I have not. People came prying into my business, and I tried to throw them off.

Question, (by Judge Evans.) Were you apprized that the execution of Butler & Brother *vs.* John C. Watrous was levied upon this La Vega land?

Answer. Yes, sir.

Question. Did you not go to Butler and tell him that, as a friend, you would advise him not to levy that execution upon that land, as Watrous had no interest in it whatever; and did not Butler tell you that you need not come to him, that you were not his but the friend of Judge Watrous?

Answer. Never. I knew nothing at all about it until after the levy was made.

Question. After the levy was made, did you not have a conversation with Butler?

Answer. Yes, sir.

Question. In that conversation, did you not say to him that Watrous had no interest in the land?

Answer. That requires explanation. I said this, that it was not an interest which could be levied upon by an execution and sold. That is what I said to Mr. Butler.

Question, (by Mr. Billingham.) In that conversation, did you disclose to Mr. Butler what interest Judge Watrous had in the land?

Answer. I think I did not at that moment; but I was the means through which the whole matter was consummated. I produced the agreement from which the deed of trust was made.

Question. Was that at the first interview?

Answer. Not at the first interview with Mr. Butler.

Question. Did you inform him, at the first interview, what interest Judge Watrous had in the land?

Answer. He knew that Judge Watrous had an interest, because Judge Watrous had disclosed his interest from the bench, and it was known to everybody.

Question, (by Mr. Chapman.) Was the levy abandoned after your interview with Mr. Butler?

Answer. Yes, sir; it was abandoned entirely.

Question, (by Judge Evans.) You have stated that you obtained the affidavit of Juan Gonzales to the authenticity of the power of attorney at Rio Grande city?

Answer. I did.

Question. Was that affidavit attached to the power of attorney?

Answer. It was, and is attached to it now.

Question. Was it attached at the time?

Answer. Certainly it was. It was attached by the chief justice of Starr county.

Question. When did you first hand that affidavit and power of attorney to Judge Hughes?

Answer. I handed it to him first at Galveston. I was in Monterey on the 4th day of July last. I handed it to him somewhere about the 1st of August, 1857, at Galveston. I speak of the power of attorney with the affidavit of Juan Gonzales attached to it. Stop! I did not hand it to him at all. It was in the possession of Mr. F. J. Parker, United States commissioner, and Mr. Parker handed it to Judge Hughes.

Question. What became of the power of attorney?

Answer. Judge Hughes, Gonzales, and myself went to New Orleans, and took the power of attorney with us.

Question. In whose possession was it?

Answer. Judge Hughes'. Mr. Parker remained at Galveston; John Treanor went to New Orleans with us.

Question. Was not there a verdict in the case of *League vs. Atchison*?

Answer. There was.

Question. In whose favor was it?

Answer. Daniel D. Atchison.

Question. Was that verdict set aside for a new trial?

Answer. It was.

Question. Was not the issue, whether the deed under which you held was signed in blank, and whether a deed signed in blank was good?

Answer. There were several questions; that was one; statute of limitations was another; holding under a tenant was another.

Question, (by Mr. Cushing.) Please to state, so far as you remember, the year and month in which the first conversation with Mr. Butler occurred?

Answer. It must have been sometime from the first of January to May, 1857.

Question. Had or not the Lapsley suits, prior to that time, been

removed by public order, to Louisiana, because of the personal interest of Judge Watrous?

Answer. They had.

Question. How many years before that time?

Answer. Two or three; I cannot state positively.

Question. What was the precise object of your interviews with Mr. Butler?

Answer. To settle a debt owed by Judge Watrous to Mr. Butler.

Question. Did, or not, your first conversation with him assume a common knowledge of the interest of Judge Watrous?

Answer. Certainly.

Question. What was the result of your negotiations with Mr. Butler?

Answer. It was a settlement of the debt.

Question. In what mode was the settlement made?

Answer. By a deed of trust of the interest of Judge Watrous in the La Vega lands.

Question. What was the alleged or assumed interest of Judge Watrous on which Butler's levy had been made?

Answer. One-fourth after all of the expenses had been paid.

Question. Look at this paper, which purports to be a copy of a trust deed executed by Judge Watrous to N. B. Yard, dated May 19, 1857, and state whether or not it is the settlement which you negotiated in the case of Butler against Watrous?

Answer. I brought about the arrangement between them, but whether I have ever seen this instrument or not I cannot say. I see it is signed Thomas J. League. That is my son, not me. I brought the settlement about, and I believe that to be the instrument. I know that Mr. Yard was to be the trustee, and I know that Mr. Ballinger drew up the paper, and I believe I was present at the signing of the paper.

Question. You perceive that annexed to this is a statement by Mr. Lapsley of the interest of Judge Watrous?

Answer. Yes; I sent it on to Mr. Lapsley myself, and I think I received that or the original of it from Mr. Lapsley, and that I delivered it over to Mr. Butler or Mr. Ballinger.

Question. In the first interview between you and Mr. Butler, what did you say to him, if anything, and what, if anything, did he say to you regarding the interest of Judge Watrous in the La Vega lands?

Answer. The precise conversation I cannot state; the substance of it is this: I did not believe that Mr. Butler's levy would be good on the interest of Judge Watrous; that it was such an interest that it could not be levied upon; that there were certain conditions which had to be performed by Judge Watrous before he could have anything. I cannot state the exact words; but that is the substance of it. He talked a long while. Mr. Butler felt aggrieved at Judge Watrous, and I stated to Mr. Butler Judge Watrous' great anxiety to settle the debt, and that I thought Mr. Butler bore down very hard upon him; that the debt, in the first instance, had accrued by a partnership business; that they had victimized Judge Watrous, and saddled him with the whole debt.

Question. What was said in that interview as to the origin and nature of the debt secured by that deed of trust?

Answer. Mr. Butler stated that Judge Watrous owed him that debt; that he thought it ought to be paid, and had been trying to get his money. I mentioned to him that he ought to be lenient to Judge Watrous; that he ought to consider the nature of the debt. Judge Watrous was the owner of a patent for curing beef. The Butlers and he went into partnership. The Butlers were to furnish the money and do all the business, and have the sole control and management of everything, and Judge Watrous was to put his patent in. He was anxious to have his patent tested. The Butlers established a factory and broke down in the business; that is, they could not advance money, or they became dissatisfied in the advances of money. Judge Watrous took it on himself, remunerated them for everything that was done, and took the whole debt on himself, much against the advice of many persons at the time, and hence that debt.

WITNESS. I had said in my testimony that I never gave a warrantee title in my life, and would not do so. I was in error. I did give a warrantee for some patented lands some time in 1847 or 1848, to Captain Randolph.

My exact words to Mr. Butler were, "recollect, Mr. Butler, Judge Watrous never received one dollar for the whole amount of his indebtedness to you, and you ought not to oppress him."

I have said that I had but one suit in Judge Watrous' court, now standing in my name, viz: T. M. League vs. D. D. Atchison. There may be others, but I have not the slightest interest in them whatever. I have retransferred all my rights to the original parties, and they I believe have transferred to a man in North Carolina, named Williams. I mean that I have retransferred all my right in the Powers and Hewitson lands to the original parties.

THOS. M. LEAGUE.

EXAMINATION OF M. M. POTTER.

TUESDAY, MAY 4, 1858.

Examined by Mr. Clark.

Question. Where do you reside?

Answer. In Galveston, Texas.

Question. How long have you resided there?

Answer. Since 1840.

Question. Do you know Judge Watrous?

Answer. Yes, sir.

Question. Were you in any way connected with the suits called the Lapsley suits?

Answer. Not at all

Question. You knew them?

Answer. I knew nothing about them, except that there were cases on the docket called the Lapsley cases. I never had any connexion with them.

Question. Did you happen to be in Judge Watrous' court at any time when these cases were called?

Answer. Not within my recollection. I have no knowledge in reference to the cases, except that there were such cases on the docket, and that subsequently, as I understood, they were transferred to the Austin branch of the court. It is possible I may have been in court when the cases were called, but I have no recollection of it, because I had no interest in the cases, and was not connected with them in any way.

Question. And you never heard them the subject of a motion in open court?

Answer. I recollect nothing that transpired in court in relation to them.

Question. Do you recollect any occasion when application was made for an order, and when the judge either made it or declined to make it?

Answer. I have no recollection in regard to it.

Question. Did you attend the April term, 1851, of the district court, presided over by Judge Watrous?

Answer. I suppose I must have been in and out of the court during the April term, but as to anything particular that transpired at that term I cannot say.

Question, (by Mr. Billinghamst.) You are a practising lawyer there?

Answer. Yes, sir.

Question. And you were generally in the court house when the court was open?

Answer, Yes, sir.

Question, (by Mr. Clark.) You attended at the May term?

Answer. I cannot say whether there were two terms that year, because there was nothing particular to call my attention to it; but my residence is there, and I seldom leave the place to attend court at any other place, except at Houston.

Question. Did you hear at the April or May term of any disability on the part of Judge Watrous from trying these cases?

Answer. I do not know that I did. I do not know that I heard anything about any matter connected with the cases in particular until they were transferred to the Austin branch, and went off from the Galveston docket.

Question. Did you hear at any time of such disability on the part of the judge?

Answer. Yes; I heard, but when it was I cannot say, that Judge Watrous was interested in these cases; I heard it as a matter of remark; I do not know when, or from what source.

Question. How far back are you able to trace that impression?

Answer. It is impossible for me to fix a time, because I had nothing

to call my attention to it. It may have been before they were transferred, or it may have been after, I cannot say.

Question. But there is an impression on your mind in regard to it?

Answer. No impression on my mind as to time, except that I heard at some time that he was interested in the title.

Question, (by Mr. Taylor.) When you say transferred, what do you mean?

Answer. I mean transferred from the Galveston branch of the court. The State of Texas was all one district then.

Question, (by Mr. Clark.) You had no connexion with the cases in any way?

Answer. None in any form.

Question, (by Mr. Billingham.) Did you know of such a suit as Ufferd and Dykes, tried in Judge Watrous' court in Galveston?

Answer. Yes, sir.

Question. What was the subject-matter of that suit?

Answer. It was on an eleven-league title for land situated in Williamson county.

Question. Granted to whom?

Answer. To Rafael de Aguirre.

Question. Were you one of the counsel in the case?

Answer. I was counsel for the plaintiff.

Question. Who were the other counsel for the plaintiff?

Answer. Allen and Hale and Merriman and myself. Mr. Hale, Mr. Merriman, and myself attended to the case principally.

Question. For the plaintiff, Ufferd?

Answer. Yes, sir.

Question. Who were the counsel for the defendants?

Answer. Mr. O. C. Hartley, Judge Robert Hughes, of Galveston, and a gentleman named Hughes, from Georgetown, Williamson county, where the land is situated, attended to the case at the trial.

Question. Who were the original attorneys for the plaintiff and defendant?

Answer. The original attorneys for the plaintiff were those I have mentioned. It seems to me that Colonel John Taylor was first employed in this case. I know he was in one or two other cases where we were for the plaintiffs on old titles, and my impression is, that perhaps he may have filed the original answer in this case, but I am not certain of that.

Question. Which one of the plaintiff's attorneys had the arrangement of the title in that case, the preparation of the evidence as to title?

Answer. Mr. Hale and myself, I presume, attended more to the arrangement of the evidence than the other counsel.

Question. Are you and Hale in partnership?

Answer. No, sir; we were employed jointly in these cases. The contract was originally made with Allen and Hale and our firm and Mr. Merriman to bring the suits in this and the other litigations.

Question. What firm had possession of the title papers?

Answer. The papers were in the possession of Allen and Hale most of the time.

Question. Who brought the title papers into court at the time of the trial?

Answer. I presume Mr. Hale did.

Question. Are you able to recollect what title papers he brought into court at the time of the trial?

Answer. We had a great many different papers in the cause.

Question. I mean those which were essential to establish the title?

Answer. The Aguirre title and copies of the powers of attorney, the power to locate and the power to sell, were the essential title papers on which the title rested.

Question. Anything else?

Answer. Then we put in evidence three other eleven-league grants, for the purpose of showing the abutments in the Aguirre grant.

Question. Give me the chain of title which Mr. Hale took into court?

Answer. So far as I recollect about the matter we used in the trial of the case all the papers we had in court.

Question. State them in order—the order in which the title descended?

Answer. There was the title to Aguirre from the government, and the sale under the power of attorney. The transfer of that title was made, it seems to me, to Nat. Williams, but I am not certain in regard to that. I think the transfer was made to Nat. Williams, and from Nat. Williams to the party we represented.

Question. Under what authority?

Answer. Under the power of attorney to sell from Aguirre to Samuel M. Williams, we introduced the power of attorney to locate and the power of attorney to sell?

Question. You said, a little while ago, that you had copies of the powers of attorney?

Answer. I say so still; they were copies from the land office, which, under our laws, are admissible in evidence. We make title papers, properly registered in the land office and authenticated by the commissioner of the land office, evidence.

Question. Do you know whether these papers were properly registered in the land office?

Answer. They were filed there.

Question. Do you know whether they were properly and legally registered?

Answer. I know nothing about them, except that we had them certified?

Question. Do you know whether they were in such shape or so evidenced as to entitle them to be recorded in the land office?

Answer. I know nothing about them in the land office, except that we had certified copies of them from the land office. When we want papers, and suppose they are in the land office, we write to the commissioner and get certified copies of them.

Question. Samuel M. Williams, as attorney in fact for Aguirre, conveyed, as I understand you, to Nat. F. Williams?

Answer. Yes; if that is the title which passed through him.

Question. And from Williams to whom?

Answer. That conveyance, I suppose, was to Ufferd.

Question. Your plaintiff?

Answer. No; that conveyance may have been from Williams to Asa P. Ufferd. I am not so positive about the mean conveyance, because there were several titles in litigation for which we were the attorneys, and I have never looked into the titles since.

Question. Before the court sat at which the trial was had, was the plaintiff fully prepared for trial?

Answer. No, sir; there were some matters of evidence which were not ready for trial at that term.

Question. What evidence?

Answer. We questioned somewhat whether we were ready for trial in regard to that one power of attorney.

Question. What power of attorney?

Answer. The power of attorney to sell, I think.

Question. By whom, and to whom?

Answer. From Aguirre to Samuel M. Williams.

Question. What was the difficulty as to that power of attorney?

Answer. As to whether it was properly authenticated so that it would be evidence. I cannot say, at this moment, whether it was a power of attorney to sell, or a power to locate. There were two powers, one to locate and the other to sell.

Question. But as to one of these powers there was some question?

Answer. There was.

Question. And you are not able to recollect whether it was as to the power to sell, or the power to locate?

Answer. I am not certain in regard to it. It was a power passed before Juan Gonzales?

Question. Were not both passed before Juan Gonzales?

Answer. I am not certain as to that.

Question. Did the objection extend to both?

Answer. The question mainly in the consultation with us in regard to it existed as to one—as to whether we could use it, with certainty, in evidence. I recollect more particularly about that, recollecting what transpired between Hale and myself.

Question. Was it your intention to go to trial at that term of the court on the evidence you had?

Answer. It was our intention to go to trial if we could get ready to go.

Question. Did you come to the conclusion that you had got ready to go to trial before the court convened?

Answer. I presume not, as we had not come to the conclusion to go to trial till after a considerable consultation in court with the other side, and agreeing on some facts before either party announced that they were ready for trial.

Question. Was that after the suit was called on the docket that you had this consultation?

Answer. My recollection is that we had not determined on going to trial until we consummated the agreement in court, and then both sides announced themselves ready.

Question. Was that a side bar agreement, or was it an agreement in open court?

Answer. It was an agreement, reduced to writing, between the counsel in the case in court.

Question. Between what counsel was the conference held which resulted in that agreement?

Answer. Mr. Hale and myself, as to the points, consulted more particularly probably on our side; and I presume all the counsel on the other side consulted, for they were all in court at the trial. The agreement was consummated before we announced ourselves ready, and I think we went immediately to trial.

Question. My questions have been directed to the last trial—was there more than one trial in the Ufford and Dykes case?

Answer. Yes, sir.

Question. Do you act as counsel in both?

Answer. In both issues.

Question. Was Judge Hughes counsel in any other issue than the last trial for the defendants?

Answer. There were two classes of defences. Several of the defendants merely pleaded not guilty, without setting up any claim of title in themselves. Others pleaded the statute of limitations and other matters in defence. I think it was at the suggestion, and on the motion, of the defendants, that they severed. Those who merely pleaded not guilty, we tried the issue as to them first. There was a verdict for the plaintiffs, and we then went to trial on the issues for the defendants, who pleaded defensible matter.

Question. This was all at one term of the court?

Answer. All at the one term of the court.

Question. At what term?

Answer. I think three years ago the past winter.

Question. In February, 1855?

Answer. Yes; I suppose that was the time.

Question. In the consultation between the counsel, which resulted in this written agreement, did the defendants' counsel interpose any objection to go to trial?

Answer. There were some matters which they considered of importance to have admitted.

Question. Who? Counsel for the plaintiffs or for the defendants?

Answer. For the defendants. We put in the written agreement, signed by counsel in the case, and it was read as evidence to the jury.

Question. Did you and Mr. Hale state to the defendants' counsel the reason why you were not ready to go to trial?

Answer. My recollection is that we told them that unless there were certain matters agreed to we should not go to trial.

Question. What were those matters?

Answer. There were several matters. One of them was in regard to the power of attorney. Mr. Hale was canvassing the matter with them more particularly than myself. Mr. Hale thought we could use the power. I thought it probable we could ; but in my mind it was not a matter of certainty. They had agreed on other matters, and Mr. Hale remarked that they declined in regard to this. We had consulted before, and wanted an agreement in respect to this. I told Mr. Hale that, so far as my judgment was concerned, I should not say to go to trial without the agreement ; and he informed them that we would not consent to go to trial unless this paper was admitted, and it was admitted with other matters agreed upon.

Question, (by Mr. Taylor.) That is to say, no objection was made to it?

Answer. It was admitted in a certain form ; that is, that the act was passed before Juan Gonzales ; that is my recollection of the agreement ; and on that it went into the case.

Question, (by Mr. Clark.) Did either of the defendants' counsel object to making that agreement?

Answer. I cannot say whether they objected or not, further than what I have stated to you, that they did not seem disposed at first to have anything in the agreement in relation to this power. Mr. Hale and myself conversed about the matter ; he thought we could use it, I thought we probably could, but it was doubtful, and I thought it necessary for us to have the question beyond doubt. I thought we should not attempt to use it unless they would consent to it, because we believed we could get other evidence.

Question. Did you or Mr. Hale procure the copy of the power of attorney to sell, through the general land office, or was it furnished you by Judge Hughes?

Answer. I am not aware of Judge Hughes ever having had any of our papers in respect to the title.

Question. Did you, or Mr. Hale, or either of you, have a copy of that power of attorney certified from the general land office before the trial?

Answer. I cannot say positively ; I suppose we had all the title papers, and I suppose we had a copy of the power of attorney.

Question. Do you recollect seeing a copy of the power of attorney to sell before it was furnished by Judge Hughes?

Answer. I have stated that I was not aware that Judge Hughes ever had any of our papers, and I do not know that he ever had that in his possession.

Question. Are you aware that you ever had any of Judge Hughes' papers?

Answer. No, sir.

Question. Did not the copy of the power of attorney come from Judge Hughes?

Answer. Not that I am aware of.

Question. Did you procure it yourself?

Answer. No, sir.

Question. Did you ever see it in the examination of the title before the term at which the trial was had?

Answer. The only distinct recollection I have about this particular paper is, the use we made of it at the trial.

Question. Do you recollect seeing it before that?

Answer. I cannot say whether I ever did or not; I suppose we had all the title papers.

Question. Was it not an objection on your part, and was that not the reason of your not being ready to go to trial, that you did not have that power of attorney?

Answer. That is not my recollection of it; my recollection is that the difficulty was about the authentication of it, and all I recollect particularly in regard to this power now is as to the agreement for putting the paper into the cause.

Question. Was that agreed upon by Judge Hughes in objection to the counsel associated with him?

Answer. The agreement was, I suppose, assented to by all three of the counsel.

Question. I am speaking of what transpired before the agreement was made; in other words, did Judge Hughes overrule his junior counsel in that agreement?

Answer. I do not know who ruled or overruled in the consultation between them. They consulted and decided for themselves as to what they would agree to.

Question. Was there a trial in that case, or a verdict in it before that term of the court, by default or otherwise?

Answer. I think there was a judgment by default, and that Mr. Hartley was employed in the case, and made an application to set aside the judgment, and it was set aside, and the case was continued. That is my recollection of the matter.

Question. Was this power of attorney read to the jury or the court in the progress of the trial?

Answer. It was put in as evidence, and we used it as evidence. It was put in under the agreement that was made, and I do not think there was any question made in respect to it. I do not know whether it was read or not. It was put in as part of the chain of evidence, and was used in the argument of the case. My recollection of it is that it was in the Spanish language, and probably it was merely stated.

Question, (by the chairman.) It was stated or read?

Answer. It was stated or read.

Question, (by Mr. Billingham.) Have you the agreement that was made?

Answer. No; but the record will show what the stipulations were.

Question, (by Mr. Taylor.) There was a grant from the Mexican government. The title conferred by that grant is transferred to another party under power of attorney. In order to make out the title of the transferee, three papers would be necessary: the grant, the power of attorney, and the conveyance executed in virtue of that power of attorney. Where it is necessary to show title in the plaintiff, what is your course with respect to a trial before a jury? do you

read the title papers, or do you state them so that the jury may have all the facts on which it is necessary that their verdicts should rest?

Answer. The title would be put in, and the mean conveyance would be presented. If there were a question made before them, they would probably be read. There were many questions made in the progress of this case, and a voluminous bill of exceptions was made up in the progress of the trial. Unless a question was made on the title, the reading of all the papers would be unnecessary.

Question. But would the substance be stated?

Answer. The substance would undoubtedly be stated.

Question. Would it necessarily be stated?

Answer. Yes.

Question. I understood you to state that the admission in regard to that paper was that it was, made by Gonzales?

Answer. That it was passed before Juan Gonzales. The agreement was formed in such a way as that it was understood we could use the paper. I cannot give the words of that agreement; it was in writing and went into the case. With that, as I said before, there were some other matters, some on one side and some on the other, which were agreed to. That paper was read and presented to the jury as a portion of the evidence. The memorandums of agreement were read as we progressed in the evidence, and the particular portions of it which were applicable were presented to the jury.

Question. And if not read, you stated the character of them?

Answer. Yes, sir.

Question, (by the chairman.) I understand that you had the evidence of title from the government to Aguirre?

Answer. We used in the case a certified copy of the title from the general land office.

Question. I speak now of the title that issued from the Mexican government to Aguirre?

Answer. Yes; we had a certified copy of the title.

Question. How was that concession? Was it a single concession? Did the instrument contain a concession to Rafael Aguirre alone, or were there more grants in the same concession?

Answer. There were three grants in it—to José Aguirre, Rafael Aguirre, and Tomas de la Vega.

Question. The copy of the power of attorney, of which you speak, under which Williams was authorized to sell, by whom did that power of attorney purport to be executed?

Answer. It purported to be executed by all three of the parties interested in the original concession.

Question. By those you have just named?

Answer. Yes; by both the Aguirres and de la Vega. The concession was for eleven leagues of land to each of the three.

Question. And the same power of attorney purported to give authority to Williams to sell for each of the three their respective eleven leagues?

Answer. Yes, sir.

Question. Do you know anything about the Tomas de la Vega eleven-league grant?

Answer. I know that there was such a grant.

Question. Was that the one in contest in the Lapsley suits?

Answer. I understood that it was on that title the Lapsley suits were founded.

Question. The grant of which you speak as being in the concession and in the power of attorney, was the same grant as in the Lapsley suits?

Answer. So I understand; there is no doubt of it, from what I know in regard to the matter.

Question. (by Mr. Ready.) Was any question made on the trial on that power of attorney authorizing Williams to sell?

Answer. I do not think that either of the powers of attorney made any figure in the case, before the court or jury, and I do not think any question was made about them.

Question. Do you recollect what were the questions mainly relied upon in that case?

Answer. Yes, sir; there were many questions made. As I stated, the bill of exceptions was voluminous, and embodied all, or nearly all the evidence we put into the case. The main question which we apprehended to contend with, and which was the one I supposed that the defence relied upon most confidently, was the fact of another grant having been made of the Rafael Aguirre concession, which was located at the mouth of the Bosque, on the Brazos river. The ground taken by the defence was, that that grant exhausted the concession, and that, therefore, our title was void. They claimed that the Bosque grant was a good prior grant. That was the point against which we had prepared to contend, and on which we supposed our case rested. As to any other matters in the case, we had no expectation of any difficulty. What the defence may have expected, of course I cannot say.

Question. Was that the point on which the case turned?

Answer. That the plaintiff's counsel considered as the point on which the case turned. We considered it the essential point of the case.

Question, (by Mr. Clark.) There was a question of abandonment?

Answer. On our side, we claimed that the parties whom we represented, had never authorized the location of the grant there; that that location was made there by mistake; that the location in fact never was made for Rafael Aguirre, but that it was probably made for José Aguirre. José Aguirre never has received a title for any land at all, and we supposed (that was our explanation of the matter, and we supposed it to be a fact) that there was a mistake in the office, and that that survey at the mouth of the Bosque was made for José Aguirre, and was filled up by mistake for Rafael Aguirre, and Rafael Aguirre has never laid claim to it at all. The fact was communicated to the general land office that the parties claiming under the Rafael title never set up a claim to the land on the Bosque, and that, as we understood, the land office had patented on that land as not being

claimed by the parties under the title. The land had been patented there, and on this grant—the Williamson county grant—the commissioner of the land office had issued instructions to the surveyors that that grant was recognized as valid against the land office, and prohibiting their making surveys on it. That, I think, the evidence in the case shows. I recollect the conversation between Hale and myself; I told Mr. Hale that if he chose to take the responsibility of saying that we should go to trial without an agreement with regard to the power, I was willing he should do so, but I would not take the responsibility; and Mr. Hale said unless I said yes, he would not do it.

Question, (by Mr. Taylor.) Whatever question there was about it, was a question prior to going to trial?

Answer. Yes; we did not announce that we were ready for trial till we had that written agreement perfected.

Question. It was concluded at that time when you made the agreement?

Answer. Yes; and I am not conscious that any question was made on either of the powers from that time on. We introduced them without any objection. That title probably passed by conveyance from Asa P. Ufferd to Joseph Ufferd.

Question, (by Mr. Taylor.) By reference to the record, it seems that the court instructed the jury as follows: "First, that the title or grant issued to Rafael de Aguirre, and introduced in evidence by the plaintiff, is, on its face, a valid title, and appropriates the land described in it; that the conveyance from Rafael de Aguirre, by his attorney, Samuel M. Williams, to Asa P. Ufferd, and from Asa P. Ufferd to Joseph Ufferd, introduced in evidence by the plaintiff, are competent and sufficient in law to convey the title to Rafael de Aguirre, acquired under the grant aforesaid, to the plaintiff." Do you recollect the circumstance of your requiring that instruction, and whether or not the attention of the court was called to the papers necessary to enable it to determine whether that instruction could or could not be given?

Answer. The bill of exceptions in this case will show that there were some exceptions taken in the first place to the introduction of our title, which exceptions were overruled. That was passing on the title as a valid title on its face. The powers of attorney were admitted, or went in without any objection. We considered that, of course, as an admission of their sufficiency to pass the title. It was, of course, the duty of the court to pass upon the papers as to whether they were legal instruments or not, and, of course, as in all cases, a counsel would ask the court to say that these papers conveyed the land; that the original grant appropriated the land to Rafael Aguirre, and that the mean conveyances were sufficient, on their face, to pass the title.

Question, (by Mr. Taylor.) You considered that the agreement of counsel dispensed the judge from the necessity of examining whether the power of attorney was sufficient?

Answer. I should consider it in that way. These powers of attorney made no figure in the case. My impression is, that there was no

argument made against them in any form. Mr. Hale opened the argument for the plaintiff, and made a very brief statement of the case. It was a good deal elaborated by Judge Hughes and the other Mr. Hughes, from Georgetown, and I closed the argument for plaintiff; and if there was any question made about these powers of attorney, it has entirely escaped my recollection. They made no figure in the case, and I suppose the court took it as conceded that these papers were legal, valid papers, because there was no question made against them.

Question. When a court is called upon to instruct on a particular point, its instructions would be based either upon its own knowledge of the particular matter on which it is called to instruct the jury, or on the consent of counsel. Now, if there had been no consent of counsel, and if these three papers had been in the case, the grant the power of attorney from the grantee, and a transfer from the attorney in fact, and if instructions had been asked in regard to them, would it not have been necessary for the court to examine all these papers, so see, first, that the grant was valid; second, that the power of attorney was sufficient to authorize the transfer of the title; and, third, that the transfer itself was sufficient? I understand you to say that your impression is—your attention not being directed to it—that it was assumed that the power to sell was sufficient, because of the agreement of counsel?

Answer. I think there was no question made about it, and that the sufficiency of the power was not argued against on the other side.

Question. I understand that the agreement had relation to the power?

Answer. As a matter of course, it did. The stipulations were such that the paper was admitted, and I do not think any objection was made to its sufficiency to pass the title. I cannot say whether that paper was ever read. According to my recollection, it was in the Spanish language, and I presume it was not read.

Question, (by Mr. Clark.) And there was no point made about it?

Answer. No point made about it, according to my recollection; and, of course, we, considering that we had the papers showing a valid title, asked the court simply to charge on that point that the papers presented were sufficient to pass the title.

Question, (by Mr. Clark.) That link in the chain was not contested?

Answer. No; by an examination of the bill of exceptions, it will be seen that some question was made about the validity of the grant. I think that Mr. Hughes, of Georgetown, laid great stress upon the fact that it was not on properly stamped paper. As to those minor points, we never apprehended any difficulty at all in the case. It was only in regard to the Bosque grant that we expected to have a contest.

Question, (by Mr. Clark.) The agreement, I suppose, will show the stipulations on that point?

Answer. Yes; we put the paper in evidence, as we supposed it was intended it should be; and then, as I say, there was no question made

on the power ; but that it was sufficient to effect the objects for which we put it in evidence.

Question. Was it a trespass or an ejectment suit ?

Answer. It was the statutory remedy in trespass to this title.

Question, (by Mr. Evans.) Where was the testimony at the time of the trial ?

Answer. I do not know. At that time, or about that time, I understood that Mr. League probably had the original power of attorney to sell on which all these titles rested, and that was the reason.

Question. How was it you did not introduce the original instead of a copy ?

Answer. The original was not in our hands.

Question. You spoke of it being in Mr. League's possession ?

Answer. Counsel had no control of it. I did not know, at that time, that Mr. League had it, or where it was. It was about that time that I received the intimation.

Question, (by Mr. Billinghamst.) Couldn't you have subpoenaed Mr. League to produce it ?

Answer. I do not suppose we were cognizant, at the time, of the fact that Mr. League had it ; I suppose we must have learned that afterwards, from the fact that I wanted an admission about the instrument.

Question, (by Mr. Evans.) Did you ever see the original ?

Answer. I do not think I ever did.

Question. Did you, or any of the parties for whom you were interested, send to Saltillo to have the archives examined as to the existence of any power of attorney authorizing Williams to sell ?

Answer. Not to my knowledge.

Question. Did you or any of the parties ever correspond with Rafael de Aguirre on the subject of the power of attorney ?

Answer. I never corresponded with him, and I do not think any of the others did.

Question. This suit was instituted for the January term of 1851, was it not ?

Answer. It was about that time ; I do not recollect precisely. I believe it was the April term of 1851.

Question. Judgment was rendered in 1855 ?

Answer. Yes, three years ago last winter the case was tried.

Question. When did you first learn that the power of attorney was in the land office ?

Answer. I cannot tell you when I first learned anything in regard to it. My recollection of the matter is only as to the matter of getting it admitted so as to use it on the trial. That power of attorney may not have been in our possession all the time ; but I have no knowledge when we got it. I suppose we had all the title papers for some time ; but I cannot say.

Question. Do you have a distinct recollection of the time when you first investigated the title for your client ?

Answer. I suppose we must have been employed in relation to this matter some little time before the suit was brought, and that was the first knowledge I had in regard to it. I cannot say how long before

the suit was brought. I recollect that before the suit was brought we sent an agent up to look at the condition of things there, and to see who were on the lands. I cannot say how long that was before the suit was brought. We brought the suit as soon as we got into a condition and thought it advisable.

Question. Did you ever send to ascertain whether the title was on file at the land office at Austin?

Answer. The papers used in the trial of the cause were almost all of them land office copies. Whether we got them all before we brought the suit, I cannot say. We had the title itself; but I cannot say whether we had all the other papers connected with it. For instance, we put in three other titles for the purpose of showing matters connected with our title.

Question. Do you know who withdrew that power of attorney from the land office?

Answer. No, sir.

Question. Do you know that it was withdrawn?

Answer. No, sir; all I know about it is, that I have understood that Mr. League had the power of attorney.

Question. Had this power been recorded in the county where the land is situated?

Answer. That I cannot say.

Question. What time did you offer it in evidence?

Answer. We did not offer the original power of attorney; we offered a copy from the land office.

Question. At that time, was that power on record in the county where the land lies?

Answer. I cannot say.

Question. Do you not know that the power to locate had been recorded?

Answer. I have no recollection on the subject, whether it had been or not. I think it probable they both had been; but I cannot say whether they had been or not.

Question. Who employed you as counsel in that case?

Answer. Mr. Ufford was the first party that spoke to Mr. Merriman and myself, and Mr. Harnick made the contract for employment of counsel.

Question. Is Mr. Hanrick the same gentleman you have met here in the city?

Answer. Yes.

Question. Do you know who are the parties interested with the plaintiffs in the land under the Aguirre grant?

Witness declined to answer, on the ground of professional privilege, Judge Watrous waiving any objection on his part.

Question, (by Mr. Ready.) Do you know whether any of the parties in the suit of Ufford *vs.* Dykes were in any degree related to Judge Watrous?

Answer. No party that I ever heard of as being connected with the title was ever, that I heard, in the most remote degree related to Judge Watrous in any manner.

Question, (by Mr. Clark.) Who employed you?

Answer. Mr. Hanrick, as the agent of all the parties, made the contract with us for all this business.

Question. Do you know the parties for whom Hanrick acted as agent?

Answer. I only know from the communication of Mr. Hanrick. He is my client.

Question, (by the chairman.) Have you no knowledge outside of the communication by Mr. Hanrick?

Answer. I have had communication with one other gentleman—a gentleman from Alabama, some years ago, who was passing through Galveston, going into the interior on other business.

Question. (by Mr. Billingham.) Who was that Alabama gentleman?

Answer. I will state here my reason for objecting to this inquiry. I have ascertained that there are other parties, who are claiming adversely to the title of the parties whom I represent, and I am disposed to think that the inquiry on this point is for the purpose of an adverse claim against the parties whom I represent.

Judge Evans disclaimed any such motive.

Question, (by Mr. Clark.) An adverse claim to the land itself?

Answer. Yes; that information has lately come to me.

Question, (by Mr. Billingham.) Do you know the persons associated with Judge Watrous in the Lapsley claim in Alabama?

Answer. Only from common rumor.

Question. Who first spoke to you in relation to your retainer?

Answer. Asa P. Ufford was the first person who spoke to me in regard to this matter, and my impression is, at that time the legal title vested in him.

Question, (by Mr. Clark.) Do you know, of your own knowledge, who the parties really in interest as plaintiffs in the case of Ufford & Dykes are?

Answer. My information as to the ownership of that property is derived from parties who claim to be owners.

Question. Parties other than the plaintiff in the suit?

Answer. Yes, sir; I am not aware that I ever saw the plaintiff in that case.

Question. Had Mr. League any interest with the plaintiff in that case?

Answer. None that I ever heard of.

Question, (by Mr. Billingham.) Had Mr. Price, Mr. Frow, Mr. Plattenburg, Mr. Goldsby, or Mr. Lapsley an interest with the plaintiff in that case?

Answer. None of these Alabama men had any interest in it, that I ever heard of. As far as I know there is no earthly connexion between the parties interested under the La Vega title and those interested in the Aguirre title. I never heard such an intimation.

Question, (by Mr. Evans.) Did I understand you to say that Hanrick employed you as the agent of certain gentlemen?

Answer. Hanrick, representing himself and others, employed us to

attend to all the legal proceedings connected with the matter, and to bring suits when necessary.

Question, (by Mr. Evans.) Do you know Asa P. Ufford or Joseph Ufford?

Answer. I know Asa P. Ufford very well.

Question. Where does he reside?

Answer. He resides in Galveston. He resides in Connecticut some of the time, and some of the time in Galveston.

Question. I believe the plaintiff in this suit resides in Fairfield, Connecticut?

Answer. I have never seen Joseph Ufford. He is a brother of Asa P. Ufford, and he resides in Connecticut.

M. M. POTTER.

EXAMINATION OF ROBERT H. HOWARD.

TUESDAY, MAY 4, 1858.

Examined by Mr. Clark.

Question. Where do you reside?

Answer. In Galveston.

Question. Are you a member of the bar?

Answer. Yes.

Question. How long have you been in practice there?

Answer. Some eleven years.

Question. Since 1847?

Answer. Yes.

Question. Previously to that time had you been residing in Texas?

Answer. Yes; I have been residing in Galveston for eighteen years.

Question. And have been in the practice since 1851?

Answer. Yes.

Question. Did you practice in Judge Watrous' court?

Answer. Yes.

Question. Did you attend the terms of that court for April and May, 1851?

Answer. Yes.

Question. And in January, 1852?

Answer. Yes.

Question. You recollect the series of cases known as the Lapsley cases on the calendar of the court?

Answer. I have some recollection of them; more particularly, however, of one.

Question. Which one?

Answer. The case of Lapsley against Spencer.

Question. When were you employed in that case?

Answer. In April, 1851, I think.

Question. By Mr. Spencer?

Answer. Yes.

Question. Was the case at issue then? did you put in the answer?

Answer. Yes, sir; my recollection is that I prepared the answer myself?

Question. Who was associated with you in the conduct of the defence in that case?

Answer. A gentleman named Swett.

Question. What was the firm?

Answer. Swett & Howard.

Question. When was that case for the first time on the calendar of Judge Watrous' court?

Answer. I think the writ was returnable to the April term, 1851.

Question. Was it at issue that term?

Answer. The cases are always at issue when the answer is filed.

Question. Was the answer filed at that term?

Answer. Yes, sir; that is my recollection. My connexion with the case was of short duration. I think that the case was at issue, and stood for trial at that term.

Question. Did you take steps towards preparation for trial?

Answer. No, sir; at the time Mr. Spencer came down, he did not bring his title papers with him, and the answer was filed for the purpose of saving default.

Question. And then you wanted to have a continuance?

Answer. I intended to apply for a continuance, if necessary; but Judge Hughes, attorney for the plaintiffs, informed me that he would not be ready himself for trial at that term of the court.

Question. That was the April term?

Answer. Either the April or the May term.

Question. Did you expect to try that case before Judge Watrous?

Answer. Yes, sir.

Question. And if you had been ready, you would have proceeded to trial at that term?

Answer. I presume so. I would have had no objection myself.

Question. Was the case called at the April term?

Answer. I think the case was probably considered as continued, by agreement between myself and Judge Hughes.

Question. Was that in open court?

Answer. No; that was probably an agreement between us, that the case should be continued. I have no recollection of the case being even called. If it was, I was not in court; but it was agreed between myself and Judge Hughes that the case would be continued, as he himself was not ready for trial.

Question. Continued to when?

Answer. To the next term.

Question. When was the next term?

Answer. If this continuance was had in April, it would then be to

the May term. The April term of the court may have gone into the May term, or there may have been but a short interval between.

Question. What occurred at the May term?

Answer. I have very little recollection of what did occur further than that the case was continued again to the January term of 1852.

Question. Was there a motion in the case made in open court; was it brought to the attention of the judge?

Answer. I have no recollection of it; but it must have been so, I presume.

Question. Do you mean to say you have no recollection of any motion in the case being made in open court?

Answer. I have no recollection of it.

Question. There was a seires of cases, some eleven in number?

Answer. There were a number of them, I believe.

Question. Did you appear in more than one of these suits?

Answer. In only this one.

Question. Were there counsel for the defendants in the other cases?

Answer. I believe so.

Question. Were they all treated as a class of cases?

Answer. I think so.

Question. Did you confer with the counsel for the other defendants?

Answer. I think not.

Question. The cases, however, were all supposed to hang on the same question?

Answer. On the same question.

Question. Did you make, at the April or May term, any application to the court in that case?

Answer. No, sir.

Question. Was any made on behalf of the plaintiff?

Answer. None that I am aware of.

Question. Was the continuance of the case from April to May, if there was any such thing, by your consent or by the order of the court?

Answer. It was by consent.

Question. And not by order of the court?

Answer. There was no order made that I was aware of.

Question, (by Mr. Ready.) Did you say that at the April and May terms the orders were made by consent?

Answer. My remark extends to both terms. In fact, I am not certain that the writ was served on Spencer in time for the April term. I am not positive as to that.

Question, (by Mr. Clark.) How long did you remain in the case?

Answer. I remained as counsel in the case up to the time of its removal.

Question. When was that?

Answer. That was, I think, in January, 1852.

Question. Mr. Swett had gone to California?

Answer. I do not know.

Question. Your association with him had ceased?

Answer. Mr. Swett, I think, went to California in the spring of that year, or of 1853.

Question. Did you remain in charge of the case, and in the conduct of the defence, till the case went away?

Answer. Yes, sir.

Question. How came it to go away?

Answer. I went into the court-house to inquire about the cases, and was informed at the time, by some of the officers of the court, that it had been removed, and I got the impression that it was removed in consequence of the general order of the court removing all the cases to the districts in which the defendants resided.

Question. Where did Spencer live?

Answer. Spencer lived in the Austin district. When I received the information that the cases had been removed, I presumed it was in consequence of that general order.

Question. Then, you were not in court when the order of removal was made?

Answer. No, sir.

Question. Who is the attorney of record for the defendant?

Answer. I am. I presumed that these cases were all treated as a class of cases, and I took it for granted, when I was informed of the removal of that case, that it had gone, with all the others, to the district in which the defendants resided.

Question. Do you recollect who gave you the information?

Answer. I think it was Mr. Jones, the clerk?

Question. Do you recollect whether he did or did not tell you the ground of the removal?

Answer. I will not be positive in regard to that. I do not know whether I received the information from him, or whether it was from my own knowledge, of the order of the court. I immediately wrote to Mr. Spencer, telling him that the case had been removed from the circuit in which I practiced, and that I could not be bound to attend to it. I know that my conviction was that the case had to be removed to Austin, for the trial to be had there.

Question. Before whom?

Answer. I do not know. I had no reason to suppose that it would not be tried before Judge Watrous.

Question. Did you hear, at any time before the transfer of the case, that the judge was disqualified from trying it for any reason?

Answer. No, sir.

Question. You never heard it?

Answer. No, sir.

Question. You never heard it suggested by the court itself, or by any counsel?

Answer. No, sir.

Question. Nor by any of the counsel for any of the defendants?

Answer. No, sir; I never heard of any interest that the judge had. The first intimation I had was when I heard that they had been removed to New Orleans.

Question. Were you an active practitioner in the court as counsel?

Answer. My practice in the federal court was limited.

Question. How much of the time were you in court during the April term?

Answer. Very little ; I seldom went into the court.

Question. Had you any other case there ?

Answer. I had one or two, probably.

Question. Do you think you were in sufficient attendance on the court to be able to inform us what did and what did not take place during the court?

Answer. No, sir. There may have been orders made in the case, and I not know it.

Question. Were you in active intercourse with the lawyers ?

Answer. Yes.

Question. And with the counsel for the defendants in these Lapsley cases ?

Answer. I do not now recollect who the attorneys in these other cases were ?

Question, (by Mr. Billinghamst.) Do you know Mr. Taylor ?

Answer. I am acquainted with him ; but he is not a resident of Galveston, and I never had much intercourse with him.

Question. Was Mr. Spencer there ?

Answer. For a short time only.

Question. When ?

Answer. In April or May.

Question. Did you have any interview with him with a view to get ready for trial ?

Answer. Not after I filed the answer. I think he stayed there probably a few days, and was to have forwarded me his papers.

Question. Were you the counsel expected to try the case ?

Answer. Yes.

Question. Were you to have an associate ?

Answer. No, sir.

Question. You were to try the case as senior counsel ?

Answer. Yes.

Question. And you never heard from any source of any disqualification on the part of Judge Watrous from trying the case ?

Answer. No, sir.

Question. When did you first hear that there was any disqualification ?

Answer. As I stated, I never knew of it until I heard that the cases were removed to New Orleans from Austin.

Question. How long after that ?

Answer. I suppose it was about the time of their removal. I do not know the date.

Question. Did you refer to the minutes of the court to see the order of removal ?

Answer. No, sir ; I did not. I have since examined the records of the court, and there is no order of removal in that case entered.

Question. Was there none entered at any time ?

Answer. No, sir.

Question. You were in court in 1852?

Answer. Yes, sir; I would generally go in in the morning for a short time; I had but little business, and did not stay much of the time there.

Question. How many cases had you at the April term?

Answer. I cannot now state.

Question. Had you more than one?

Answer. I think so.

Question. How many had you at the May term?

Answer. I cannot recollect.

Question. Were you engaged as counsel in any other case, that you recollect, except this one?

Answer. I think I was.

Question. Where other parties were the attorneys of record?

Answer. Yes. The court generally met at 10 o'clock, and adjourned at 2, and it was generally known the day before what cases would occupy the attention of the court next day, and I did not go, except there was something up for trial in which I was personally interested.

Question. Do you recollect much that occurred at the January term of 1852?

Answer. No, sir; I have not much recollection of it.

Question. If these Lapsley cases were transferred, you were not in court when the order was made?

Answer. I was not.

Question. But you were informed that the order had been made, transferring them to Austin?

Answer. Yes.

Question. By whom you do not know?

Answer. I have only an impression.

Question, (by Mr. Billingham.) Did you ever consent to their removal to Austin?

Answer. I never gave any consent. I never had the proposition made to me to transfer them.

Question. Did your partner?

Answer. I think not.

Question. Did you ever talk with your partner about it?

Answer. I never mentioned it to him at all.

Question. Was it your practice to confer freely about suits when either of you did anything?

Answer. Yes, sir; this was a case, however, which I was attending to by a sort of agreement between us.

Question. Did Judge Hughes understand from you that you were to have the management of the Spencer case instead of Swett?

Answer. No, sir; nothing but that the answer was prepared by me, and that I had one conference with him when I told him that I would not be able to try the case at the April term.

Question, (by Mr. Clark.) Did Judge Hughes say why he could not try it?

Answer. He said that he was not prepared.

Question. Did he say when he would try it?

Answer. No, sir.

Question. Nor where he would try it?

Answer. No, sir.

Question. But you always expected, until after the case was removed, that it would be tried before Judge Watrous, in Austin or Galveston?

Answer. Yes, sir; I had no reason to think otherwise?

Question. What occurred at the January term, 1852, to impress your memory?

Answer. I have no memory at all of the orders made at the January term, 1852. I am certain I never was in court at the time. The information I had of the removal I derived from the clerk, or deputy clerk.

Question. You know Mr. Atchison?

Answer. Yes.

Question. He was the counsel for Mussina, in the case of Cavazos against Stillman?

Answer. Yes.

Question. Were you in court when a discussion was going on on that subject?

Answer. No, sir.

Question. Were you in court when the judge pronounced his decision in the Mussina case?

Answer. No, sir.

Question. Do you know that the decision was pronounced at the January term, 1852, in the Cavazos case?

Answer. I do not recollect.

Question. Did you hear of it at the time?

Answer. Yes; I recollect hearing a good deal of it, but it was a matter in which I did not take much interest.

Question. At what term was that?

Answer. January term, 1852.

Question. Did you hear anything of a discussion between counsel and the court about it?

Answer. I do not now recollect.

Question. You have no recollection of any of the occurrences at the January term, 1852?

Answer. No, sir.

Question. Do you mean to say you were the only counsel to whom Mr. Spencer looked for the conduct of his defence in that case?

Answer. When Mr. Spencer came to Galveston, he made application in the first place to the firm of Alexander & Atchison to attend to the suit for him. They declined doing it, and recommended him to me. It is probable that he looked to them to aid me in anything they could. I do not know whether he did or not.

Question. Do you mean that they declined to take charge of the attorney business?

Answer. Yes.

Question. Have you a division of the business between attorney and counsel?

Answer. No, sir.

Question. You have a degree of counsel and a degree of attorney?

Answer. No, sir; they are all attorneys.

Question. There are men who try cases in court who do not take care of the management of cases?

Answer. No, sir; there is no such division.

Question. Have you no special counsel, as such, who never trouble themselves about getting up cases, subpoenaing witnesses, attending to pleadings, or anything of the kind?

Answer. There are men generally who hunt up titles.

Question. Land lawyers?

Answer. Sometimes they are lawyers, and sometimes not.

Question. Do you mean to say that the cases in court are always tried by the attorneys of record in the suits?

Answer. Very generally.

Question. In this case you expected the Atchison firm to help you?

Answer. Yes; I think so.

Question. Were they your seniors or juniors in practice?

Answer. There is not much difference in age.

Question. Were they more identified with the court than you were?

Answer. No, sir.

Question. Did you make any complaint of the removal without notice to you?

Answer. I did not; I took it for granted that the removal was made in consequence of the general order removing cases.

Question. You supposed that the removal was made on the motion of the Judge.

Answer. Yes, sir.

Question. As of course?

Answer. Yes, sir.

Question, (by Mr. Billingham.) A new law had been passed on the subject?

Answer. Yes, sir; a new law districting the State. At the first organization of the court the whole State was one district, and a party living at Rio Grande was brought to Galveston to answer, and a party living at Houston was brought to Galveston to answer.

Question. Did Judge Hughes ever inform you that Judge Watrous was interested so as to preclude him from trying the case?

Answer. I think not.

Question. Nor informed your partner, Mr. Swett?

Answer. I cannot answer that.

Question. Nor Mr. Love, the clerk?

Answer. No, sir.

Question. Did you learn from any source, in Galveston, before these cases were removed to Austin, that Judge Watrous was in any way disabled from trying the Lapsley suits?

Answer. I never did.

Question, (by Mr. Clark.) Did you ever enter into any negotiation to call some other lawyer into the suit?

Answer. No, sir.

Question. Did you know of any negotiation by any of the defendants in the Lapsley suits?

Answer. No, sir.

Question. Did you know where Lapsley lived?

Answer. I had heard that he lived in Alabama.

Question. Did you compel him to give security for costs?

Answer. I do not think that there was any rule entered.

Question. Why not?

Answer. It was a matter where the clerk generally looks out for himself.

Question. Could you compel him to give security for attorney's fees?

Answer. I do not think there were any attorney's fees allowed up to that time.

Question. You had not an attorney fee bill?

Answer. I think not.

Question. Have you never had a fee bill in Texas for attorney's fees?

Answer. There is a fee bill now.

Question. Was there then?

Answer. I think not.

Question. Were you familiar enough with the courts of Texas to say whether there was or not a suit bill?

Answer. Most of the suits I have had there have been admiralty and chancery suits, with occasionally a suit in ejectment; and I am satisfied that there is no attorney's fee allowed in an ejectment suit.

Question. There is a fee bill in admiralty?

Answer. Yes, sir.

Question. Did you ever get any instructions from your client as to the defence in that case?

Answer. No, sir.

Question. You interposed the answer?

Answer. Yes, sir.

Question. Where did you derive the facts?

Answer. I got instructions from him when he was in Galveston.

Question. Did you plead the general issue?

Answer. Yes, sir; there were several pleas.

Question. What were the pleas?

Answer. There were several pleas; there was a demurrer.

Question. By Spencer?

Answer. Yes, sir; he demurred to the plaintiff's declaration.

Question. Did you argue it?

Answer. It was argued in New Orleans, if at all.

Question. Did you interpose the plea?

Answer. Yes, sir.

Question. What was the condition of the case when it was transferred; was it standing on the demurrer or on the general issue?

Answer. Our system required the filing of all the pleas at the same time.

Question. To file a plea of demurrer and of the general issue at the same time?

Answer. You must do it.

Question. Does not one overrule the other?

Answer. They must stand in regular order of pleading, but they must all be filed at the same time. A plea of abatement would precede a plea of demurrer.

Question. Did you argue anything in that case before the court?

Answer. I never did.

Question. You never entered into any negotiation touching the calling in of a lawyer to try them?

Answer. No, sir.

Question. Did you ever hear of any?

Answer. No, sir.

Question. Who else did Spencer talk with when he was there besides the firm of Alexander & Atchison?

Answer. I cannot say. They brought him to my office.

Question. (by Mr. Tappan.) When did Mr. Swett leave for California?

Answer. I am not able to answer that question.

Question. (by Mr. Billinghamst.) Have you ever substituted anybody else as attorney of record for Mr. Spencer?

Answer. Never.

Question. Were you ever applied to for that purpose?

Answer. Never.

Question. Neither before nor after the causes went to Austin?

Answer. No, sir.

Question. Did you receive the fee from Mr. Spencer?

Answer. No, sir.

Question. (by Mr. Clark.) Have your costs been paid?

Answer. Not that I am aware of.

Question. You would know if they had been?

Answer. My fees have never been paid. I have never received anything.

Question. (by Mr. Billinghamst.) Have you received a note?

Answer. No, sir; the old gentleman represented himself to me as being in straitened circumstances.

Question. (by Mr. Clark.) You regarded it as a charity suit, one of that kind which besets all young lawyers?

Answer. Yes, sir.

Question. (by Mr. Billinghamst.) Was any notice ever served on you of the removal of the cause to Austin?

Answer. None.

Question. Or its removal to New Orleans?

Answer. None.

Question. Was any notice of taking testimony ever served on you?

Answer. None.

Question. Any ever offered to you?

Answer. None.

Question, (by Mr. Clark.) Did you ever get notice of argument of the demurrer or notice of trial?

Answer. No, sir.

Question. Is not a notice of trial requisite under your system of practice?

Answer. No, sir.

Question, (by the chairman.) Were you ever notified that the other side intended to take the deposition of a man by the name of Hewitson to prove Gonzales' handwriting?—to establish the *testimonio*?

Answer. No, sir.

Question. Did Archibald Hughes ever apprise you that they intended to take the deposition of Dr. Hewitson?

Answer. No, sir.

Question. Did you ever tell Archibald Hughes that you were not the counsel for Spencer?

Answer. No, sir.

Question, (by Mr. Clark.) Have you ever applied to Mr. Spencer to pay you, or was it the understanding that you should render the service gratuitously?

Answer. The agreement I made with him was conditional.

Question. What was it?

Answer. That he would pay a certain fee. I do not remember the amount, but that was to be paid in any event, and then I was to get a portion of the land in case he recovered it.

Question. The contingent fee was in land?

Answer. Yes, sir.

Question. And the certain fee was in money?

Answer. Yes, sir.

Question. When was that to be paid.

Answer. As soon as he was able to pay it.

Question, (by the chairman.) You rendered but little service owing to the case being taken away?

Answer. Yes, sir; all I did was to save the default.

Question. You have never seen Spencer since?

Answer. Never.

Question. How often have you seen him?

Answer. Only the time he was in Galveston.

Question. How long was your interview on that occasion?

Answer. I think he was there some five or six days, and that my interview with him lasted an hour or two.

Question. Did you ever undertake to make any investigation as to the foundation of the plaintiff's claim asserted against your client?

Answer. No, sir; knowing the case would not be tried at the term to which the suit was returnable, I did not undertake an investigation.

Question. You expected to try it at the next term?

Answer. I intended to try it at the next term.

Question. When did you make your preparation for it?

Answer. I intended that he should send me down his title papers, but he never did.

Question, (by Mr. Clark.) Did you ever fairly take hold of the case?

Answer. I intended to do all I could in the case. There were other cases pending where the whole matter would be litigated, and I knew that upon their fate would depend that of this.

Question. If you had not attended at the January term, could a judgment by default have been obtained against your client?

Answer. No, sir.

Question. Could it have been taken at any period?

Answer. It might have been done at the first term at which the writ was returnable.

Question. At the January term?

Answer. No, sir. No default could have been taken, because an answer had been filed.

Question. Could not a judgment have been obtained if you had not appeared there.

Answer. The plaintiff might have proceeded to trial without me, and, if his brief was sufficient, have obtained a judgment.

Question. According to the practice of Judge Watrous' court, at what stage could that proceeding have been obtained?

Answer. Only on a regular call of the docket.

Question. Were you there on the regular call of the docket?

Answer. I do not think I was.

Question. You did not pay enough attention to it to see that there was not a judgment taken by default?

Answer. There could be no judgment taken by default, because, as I have said, the judgment by default is only in default of answer.

Question. Suppose, in the case of a note, the note was produced, and the other party did not appear to prove payment?

Answer. Then judgment would follow.

Question. Could not judgment have been obtained before you attended to it?

Answer. There were other cases preceding this which had to be tried, and which involved the same points. They could not have skipped those cases and got to the Spencer case without my knowing it.

Question, (by the chairman.) You were living there.

Answer. Yes, sir; and within a few hundred yards of the courthouse.

Question, (by Judge Evans.) Did you pay attention to this suit, or did Mr. Swett?

Answer. I gave all the attention to it that was given.

Question. Was the understanding between Swett and yourself that you should attend to the pleadings in this case?

Answer. There was no exact understanding about it; but that was the course taken.

Question, (by Mr. Clark.) Did you ascertain, prior to the removal of the cases, what the real points in litigation were?

Answer. I never did; nor have I up to this time.

Question. You were never instructed as to the points in controversy?

Answer. No, sir; I never inquired what they were.

Question, (by the chairman.) I understood you to say that your client, Mr. Spencer, claimed title to the land, and that he would send you the title papers?

Answer. Yes, sir.

Question. And that case was continued by agreement between Hughes and yourself?

Answer. Yes, sir.

Question. Then Mr. Spencer claimed title to the land himself?

Answer. Yes, sir. The pleadings which I conducted were made up of a plea of demurrer and the general issue, a plea of the statute of limitations; a plea, as it is called in Texas, of improvement and good faith, and other pleas.

Question. Had he improved his land?

Answer. Yes, sir.

Question. And lived upon it?

Answer. Yes, sir.

Question. You never heard Spencer make a complaint of the removal of these cases?

Answer. I have never seen him since. He never answered the letter which I wrote him, informing him that I could not attend to the case in the Austin district.

ROBERT H. HOWARD.

EXAMINATION OF DANIEL D. ATCHISON.

WEDNESDAY, MAY 5, 1858.

Sworn and examined by Mr. Clark.

Question. Where do you reside?

Answer. I reside in the city of Galveston.

Question. Are you a lawyer?

Answer. Yes.

Question. How long have you resided in Galveston?

Answer. Within a few days of twelve years.

Question. Have you been in practice there the whole period?

Answer. Yes; I commenced practice there.

Question. Did you study in Texas?

Answer. I first attended a course of lectures at the law school in Lexington, Kentucky.

Question. Did you practice law before you went there?

Answer. Never before I went to Texas to settle. That was at the close of May, or beginning of June, 1846. I was licensed in Kentucky, but did not fully enter into the practice.

Question. Did you practice in Judge Watrous' court at any time?

Answer. I have practiced in his court.

Question. Habitually, or only occasionally?

Answer. Only occasionally. I did not go into Judge Watrous' court except when I was compelled to. I have had business which compelled me to go into his court.

Question. Are your relations with Judge Watrous friendly or unfriendly?

Answer. I do not speak to Judge Watrous; nor have I spoken to him for some time; nor do I practice in his court.

Question. For how long a time have your personal relations been disturbed?

Answer. Since 1848 or 1849, I think.

Question. Have you not spoken to him since that time, except while he was on the bench?

Answer. I do not think that I have spoken to him since that time, except on the bench, or in his official character.

Question. Are you one of the counsel in the case of *Cavazos vs. Stillman* and others?

Answer. Yes, sir.

Question. Did you aid in the conduct of the case on its trial?

Answer. I did not.

Question. When did you come into the case?

Answer. I think the first action that I took in that case was when the decree was rendered; I think in January, 1852.

Question. Had you been retained at that time, or had you been previously retained?

Answer. Our firm, Alexander & Atchison, had been retained in the case previously to that time.

Question. But you had no personal connexion with it?

Answer. I had not. Mr. Alexander had attended to it.

Question. Where was Mr. Alexander at the January term, 1852, when the decree was rendered?

Answer. I think he was in Galveston.

Question. Were you in court at the time Judge Watrous pronounced his opinion; did he pronounce an opinion, either written or verbal, before the decree was entered, or when the decree was entered?

Answer. I was in court at the time the decree, as I supposed, was to be rendered, and at the time I supposed it was rendered. I was there, and objected to the rendition of the decree at that time.

Question. How happened you there; accidentally or for that purpose?

Answer. I was frequently in the court, but at that time I appeared there to resist the rendition of the decree.

Question. At whose solicitation?

Answer. At the solicitation of my client, Mussina.

Question. Was it in pursuance of your general retainer in the case, or of a specific request from Mr. Mussina to go into court on that occasion?

Answer. I was requested to go into court on that occasion by Mr. Mussina, and by my partner also.

Question. Why did he not go, as he had been in the case?

Answer. Mr. Alexander did not go into court at all.

Question. How long previously had the case been tried?

Answer. I cannot say. I think I was absent from Galveston when the case was tried.

Question. On that occasion, in January, 1852, you went into court with reference to the case?

Answer. I did.

Question. Who went with you; did Mr. Mussina, or any other counsel?

Answer. Mr. Mussina certainly did not, and I do not know that any counsel did. I went from my own office direct to the court.

Question. Nobody accompanying you in respect of that case?

Answer. No, sir.

Question. What was the state of things in respect of that case on your arrival there; what was done, or being done?

Answer. I went there under the impression that the decree or opinion was to be pronounced, and with a view to prevent its being rendered at that time.

Question. What was done, or being done?

Answer. I made objection to its being rendered at that term of the court?

Question. On what ground?

Answer. Colonel Howard was associated in the case, and was the leading counsel. I think he was a member of Congress, and was then here in Washington. I objected to the rendition of the decree, because he had had no notice of its being rendered at that time, and because Mussina had had no notice or expectation of its being rendered at that time. I said that I appeared in the case merely to object to the decree being rendered; and stated, among other reasons, that no notice had ever been served upon us, nor had a copy of the decree been furnished us. I may have stated other objections at the time. My argument was very hastily gotten up, because I had no expectation of the court meeting there at all at the time, as I stated among other objections then. It was not expected that any term of the court would be held there. I think I so advised Mr. Mussina.

Question. Was Mr. Mussina in Galveston at that time?

Answer. No, sir.

Question. How did you get information that the case was to be decided?

Answer. I cannot state how I got the information. I know that I went into court fully expecting the decision or the decree to be rendered, but how it was brought home to me I cannot state. It may have been that some one who knew me to be connected with the case asked me if I knew that the decree was to be rendered.

Question. Why did you expect that the court would not be held?

Answer. I had seen a letter from Mr. Merriman to a gentleman

residing in Galveston, Mr. Ball, stating that the court would not be held; and I understood it from general rumor.

Question. Was your disappointment the holding of the court in view of your expectation that it would not be held, or was it that the case was decided?

Answer. I was disappointed in the court being held. I had no expectation of a term of court being held in January at all.

Question. If you had supposed that the court would have been held at that time, would you not then have expected that the decision would have been pronounced in accordance with the course and practice of the court?

Answer. It would have been a matter of opinion.

Question. What was your proposition to the court?

Answer. What I wished to succeed in was, that the decree should not be rendered at that term, but should be held over.

Question. What was answered on the part of the plaintiff?

Answer. The Judge expressed his surprise at the time that objection was made to the decree, and stated in substance that he had seen the parties in Austin, and that they were satisfied that the decree should be rendered at that time; that they made no objection to it, or words to that effect; that he was surprised at any objection being made to the decree being rendered, as he thought that all parties desired it.

Question. Did he say what parties he had seen in Austin? What parties did you understand him to refer to—the parties defendants, or the parties plaintiffs, or the counsel, or whom?

Answer. I understood him to mean the counsel engaged in the case.

Question. Who were they?

Answer. Bass and Hoard, the attorneys.

Question. Did he name them?

Answer. I do not recollect his naming them. I do not recollect whether he named them or not.

Question. Did the Judge say anything on the subject of who were the parties in Austin who understood that the decree was to be made at that time?

Answer. I cannot state whether he named the parties at that time, whether he gave the names of those to whom he referred, or whether he referred to any particular ones or not.

Question. Who did you assume the parties to be to whom the judge referred?

Answer. I supposed the judge referred to the parties at Brownsville and their representatives there.

Question. You said the parties at Austin?

Answer. My recollection of what the judge said at the time is that he had seen the parties, or words to that effect, at Austin; and he seemed to be surprised at any objection being made to the rendering of the decree.

Question. Do you mean to say that you do not know to whom he referred by the term "the parties?"

Answer. I stated whom I supposed he referred to; that he referred to Messrs. Bass and Hoard, supposing they were at Austin, (I did not know whether they were or not,) and to the other attorneys. I do not suppose that any of the real parties in the suit, *Cavazos vs. Stillman*, were at Austin.

Question. What else, if anything, did the judge say in addition to what you have stated?

Answer. That was about the substance of what he stated.

Question. What did he do?

Answer. I cannot state whether I heard him read the decree at that time, or pronounce the opinion. The decree was rendered, however, at that time, I believe.

Question. Did you leave the court abruptly?

Answer. I cannot state that I did.

Question. Did you say anything about an appeal at that time?

Answer. I cannot say that I said anything about appealing the case at that time.

Question. Do you recollect that you did not?

Answer. I would state that I certainly never contemplated taking any appeal at that time. I regarded it as impossible for me to take an appeal.

Question. Why?

Answer. In the first place, the time required to perfect the appeal, the parties being away. It was considered a vastly important case, and I was there resisting the rendition of the decree at that time, and I do not think I would have attempted, within the short time allowed, to take an appeal.

Question. Did you return to the court, after the time when you left it on that occasion, in reference to that case?

Answer. I do not recollect returning to the court.

Question. Did you in respect to any other case at that term?

Answer. I do not think I had any other business at that term.

Question. Did you receive information that the court was being held open that you might take an appeal, or that an appeal might be perfected?

Answer. I have no recollection of any such thing as that.

Question. To facilitate you in taking an appeal?

Answer. I have no recollection of it. If I had been informed of it I certainly would not allow the court to be held open for that purpose, so far as I could control it, for I was not contemplating taking an appeal at that time.

Question. Did you say anything to the court on the subject of an appeal?

Answer. I do not recollect stating anything to the court about taking an appeal at that time.

Question. Do you recollect whether the judge said anything about an appeal?

Answer. I cannot say as to that; my impression is, that there was nothing said about it.

Question. Were you in court during the April and May terms of 1851?

Answer. I have no doubt that I was.

Question. Do you recollect the class of cases on the calendar known as the Lapsley cases?

Answer. I know there were cases of that kind.

Question. Were you in court while any proceedings were had in those case, or any motion made, or continuance ordered, or anything done in relation to them?

Answer. I cannot state that I was ever in court when I heard any order made in them.

Question. Did you hear, in either of those terms of April or May, 1851, of any disqualification on the part of the judge to try them?

Answer. I never heard of any disqualification on the part of the judge.

Question. Did you hear from any other quarter that the judge was disqualified from trying the cases?

Answer. I could not state anything except my belief about the matter.

Question. Did you get information of any disqualifying fact?

Answer. No, sir; I had not information of any fact.

Question. Did you hear any reference made in January, 1852, to the Lapsley cases?

Answer. My impression is that at the January term, 1852, I attended only to this matter of the decree in *Cavazos vs. Stillman*. I do not know that I was in court when any order was made in the Lapsley cases.

Question. Were you in court during the trial of the case of *Ufford vs. Dykes*?

Answer. Not to attend to the trial of it. I may have been in and out, but I did not attend to the trial of the case.

Question, (by Mr. Ready.) You say that you could not take an appeal at the time the decree was rendered, because the parties were absent. I wish you to state if it was your practice never to take an appeal when your clients were absent?

Answer. At that time I do not know that I had appended any case to the supreme court. I had no practice on that subject.

Question. You supposed that it was necessary that your client should be there before you took an appeal?

Answer. I cannot state what I supposed then. If I had taken an appeal, it would have been necessary for my client to file a bond and to go through the regular forms of law in the matter.

Question. You think that could not have done in his absence?

Answer. I think that I could not have done it. It is a very large case, involving a large amount, and I could not have got the bond within the time the law required. I would not have thought of doing such a thing.

Question. You have stated that you did not at that time say anything about an appeal. I wish you to state whether you at any time said anything to the judge about taking an appeal?

Answer. Long afterwards I made an application for an appeal in that case. I think it was in January, 1857.

Question. Will you state whether the judge refused to grant you an appeal?

Answer. I will state, as nearly as I can recollect, what occurred on that subject. An appeal in that case had already been taken by one of the parties to the supreme court. I was instructed to take an appeal for two other of the parties. I drew up the usual petition for an appeal, and took it to the judge at his room.

Question, (by the chairman.) When and where?

Answer. It was previous to the 10th of January, 1857. I knocked at the door and was invited in. I announced to the judge that I wished to present an application for the parties Mussina and Tarnava, to unite in the appeal in the Cavazos case, which had been taken by Shannon. I read the petition to the judge, and after that I told him that I wished him to fix the amount of the bond, and that I was ready and willing at any moment to execute the bond. I wanted him to fix the amount of the bond which he would require for costs in the case. The judge answered me that he would take the paper and consider the matter. He said that he would inform me what action he would take. I left him in his room. I do not pretend to give his language, but only the substance of what occurred. The next morning I went to the court, expecting that the judge would report to me what the bond was to be, or what action he had taken in the matter. I received no such report. I did not make any further application, or insist on it at that time. I think the day after that I went into open court, and from my place called the attention of the judge to the matter which I had presented to him in chambers. I asked him whether he had fixed the amount of the bond. I told him that I was ready to execute it. He then told me, for the first time, that he would fix the amount of the bond when the opposite counsel were in court. I took up my hat and left, under the full impression that he would not do anything in the matter, because I knew that the opposite counsel were then engaged in another court, and in a case that would probably take several days.

Question, (by Mr. Clark.) Did you tell the judge that the opposite counsel were engaged in another court?

Answer. My impression is that I did, but I cannot state positively about it. That is my best recollection.

Question, (by the chairman.) Was it known that the opposite counsel were engaged in another court? Did the judge know it?

Answer. I take it for granted that the judge did know it, for the reason that it happened to be at the time when all our courts met at same time—the federal court, the supreme court, and the district State court. It was common for counsel to arrange so as to accommodate each other in the taking up of their suits. The position of the counsel in this respect was known to all the courts, and I inferred that Judge Watrous knew the facts as well as I did.

Question, (by Mr. Ready.) These other courts to which you refer were sitting in Galveston?

Answer. Yes, sir; they were all sitting in the same place.

Question. Did you ever again move the subject before Judge Watrous after the day you said you mentioned it in open court?

Answer. I do not recollect of making any further application. When Judge Watrous announced that he would fix the bond when the opposite counsel were in court, my judgment was made up on the case.

Question. You never paid any further attention to it?

Answer. I do not think that I made any application after that.

Question, (by the chairman.) Your application continued before the court?

Answer. My petition was in his hands; it remained as my application.

Question, (by Mr. Ready.) Did you ever afterwards call on Judge Watrous to fix the amount of the bond, in court or out of court?

Answer. I never called on Judge Watrous to deliver him a bond executed, or anything of the kind. I told him that I was ready, whenever he would fix the amount of the bond, to give the securities.

Question. After you left the court on the occasion you have mentioned, did you apply to Judge Watrous at any time, in court or out of it, to know whether he had fixed the amount of the bond?

Answer. My recollection is, that I never applied to him after he told me in open court that he would fix the amount when the opposite counsel were in court. There was a short time left before the 15th, which was the last day.

Question. Did you give the name of the case in court?

Answer. Certainly.

Question. Audibly, as a motion from the bar to the court?

Answer. Directly from my place at the bar. I think it was when the court first opened. I was solicitous about the matter, as the time was rapidly passing away. I wished to have the thing determined.

Question. Do you remember who were in court at the time?

Answer. I do not.

Question. Was the clerk there?

Answer. I would not pretend to state who was in court. I went there to get this thing fixed. There was not a great number of persons in court. The clerk and deputy clerk may have been there, and there may have been many at the bar. I made no speech; I simply made the inquiry.

Question. Do you say it was prior to the 10th of January, 1857, that you presented the petition to Judge Watrous at chambers?

Answer. Yes, sir.

Question. How long before?

Answer. My best impression is that it was on the 7th or 8th of January.

Question. The next day you went up to the court expecting to hear something, and heard nothing?

Answer. Yes, sir; I heard nothing from the judge. I made an inquiry of the clerk.

Question. In the hearing of the judge?

Answer. No, sir.

Question. Who was the clerk?

Answer. It was Joseph Love, Judge Love's son.

Question. Then, the second day after you made application at chambers you made your application in court?

Answer. Yes, sir.

Question. From that time you made no further move in the matter?

Answer. I did not go into court after that, for reasons I have already stated.

Question. You made no inquiry in any form or shape about it?

Answer. Afterwards I inquired what had become of my petition, but not before the 15th.

Question, (by Mr. Taylor.) What had become of your petition?

Answer. I got a copy of it from the clerk.

Question, (by the chairman.) Was any order entered on the petition by the judge?

Answer. None, that I saw. I got a certified copy of the petition. I was applied to for it, and I sent it to my client; he wanted it; and I also forwarded a statement in relation to the matter.

Question, (by Mr. Clark.) Did you know at the time you presented this petition to the judge, at what time the period for taking an appeal would expire?

Answer. Yes, sir; it would expire on the 15th, and I had only a short time to do it in. I was extremely solicitous about it.

Question. You intended in good faith to take the appeal?

Answer. Yes, sir; I did.

Question. When the judge told you that he would fix the amount of that bond when the attorney for the opposite party was in court, why did you not mention the fact, which was known to you, that the attorney for the plaintiff was in another court, and could not probably be there?

Answer. If I did not mention that fact it was for the reason already stated, that we generally knew the position of cases in court. If I had a pressing case in the State court, and the other counsel would agree, Judge Watrous would not press my case in his court.

Question. Was there any reason which occurs to you why you did not?

Answer. I do not know that I did not tell him that fact.

Question. Did you state to Judge Watrous how soon, in your opinion, Mr. Hale would be disengaged?

Answer. I could not state positively as to that.

Question. Did you suggest to Judge Watrous that Mr. Hale would not be disengaged in time to enable you to perfect your appeal?

Answer. If I told the judge that Mr. Hale was in the other court, I am satisfied that I must have told him that the cause in which he was engaged would take up several days.

Question. Did you announce to Judge Watrous that you would not make any further application?

Answer. No, sir.

Question. Did you expect that the judge would send for you when Mr. Hale came into court?

Answer. I expected at the time the judge told me he would consider the case and report to me, that he would look at the papers and fix the amount of the bond, and the next day I went round to the court with the full expectation that he had done so.

Question. When you made your inquiry in court, did you tell Judge Watrous that you would not make any further application?

Answer. I did not.

Question. Did you expect that the judge would send for you?

Answer. I did not make any further application. I expected that he would report to me.

Question. Where did you expect Judge Watrous would make that report if you did not go to court?

Answer. I expected that he would give the information in open court.

Question. Did you signify to the judge that you would abandon the application?

Answer. Certainly not. I had no idea of abandoning it. I wanted to put the responsibility upon the judge.

Question. Did you present any form of bond to the judge?

Answer. I did not. I think the conclusion of the petition shows that I made the usual offer to do everything necessary to be done to perfect the appeal.

Question. By whom was the petition signed?

Answer. I was considering whether it was signed by Mussina and Turnava, and by their solicitor, or whether I signed it as solicitor for them.

Question. Was Mussina at Galveston at that time?

Answer. Certainly not.

Question. Was Turnava?

Answer. He was not.

Question. Do you know when the judge handed that petition to the clerk?

Answer. I do not. I applied for a copy of that petition. Some time after I got it, in looking at it I found that there was no date to it. In looking over it I saw there was no file as to time. I wanted to see how it got into the hands of the clerk. The copy of the petition, and the petition itself, showed that there was no filing mark on it until long after the 15th. After getting this copy I found there was a filing mark upon it of January 13th.

Question. Had you ever before taken an appeal from the district court to the Supreme Court of the United States?

Answer. No, sir.

Question. There were several defendants in that case?

Answer. Yes, sir.

Question. Had you made any application for a severance?

Answer. No, sir.

Question. Were you at that time acquainted with the practice of

the Supreme Court of the United States in regard to separate appeals by different defendants?

Answer. No, sir; my attention had not been called to it.

Question. If the judge had fixed the amount of the bond, were the bondsmen at Galveston whose execution of the bond you could procure?

Answer. I would have procured the execution of the bond without any question, if the judge had fixed the amount?

Question. Who were the bondsmen whom you had engaged to execute the bail bond?

Answer. I suppose that there were at any time half a dozen men whose names I could give, who I supposed would have gone on the bond without any hesitation. I would have done so myself without any hesitation.

Question. For any amount?

Answer. For the amount of the bond, if it had been fixed. Mr. Osterman, who had been the former security in the case, would, I have no doubt, gone on the bond.

Question. Had you negotiated or arranged with any bondsmen to execute the bond, on its amount being fixed?

Answer. I had not spoken to them.

Question. At what period of time did you get the instructions from Mussina, or any body else, in pursuance of which you presented this petition to the judge to allow the appeal?

Answer. It must have been the mail before the 10th of January.

Question. Was that application by letter?

Answer. I think the instructions were from Mr. Mussina to me.

Question. Did Mr. Mussina designate who would be his bondsmen?

Answer. I do not recollect whether he did or not. I knew, as I stated before, there were Mr. Osterman, E. P. Hunt, and others, who were friends of Mr. Mussina, and solvent men.

Question. Did you suggest to the judge any sum with which the blanks in the bond were to be filled?

Answer. I suggested to the judge that I was willing to execute the bond whenever he would fix the amount. That was all I wanted.

Question. Where was Mr. Mussina at the time when you left the court, not intending to return?

Answer. My impression is that, at that time, Mr. Mussina was in Washington city.

Question. So that you had no time to communicate with him?

Answer. Certainly not. Jacob Mussina (the party) resided in New Orleans.

Question. Was there time to communicate with him before the 15th?

Answer. The first mail, after I left the court, would have been the following Sunday; not in time for the 15th.

Question. Did you meet Mr. Hale before the 15th?

Answer. I may have met Mr. Hale, but I had no conversation in regard to it.

Question. If you met Hale before the 15th, did you communicate to him the fact of your application to the judge?

Answer. I did not communicate anything to Mr. Hale?

Question. How frequently did you meet Mr. Hale, after the time that you left the court?

Answer. If I met Mr. Hale at all, it was when I went into the other courts, where I had business, and where I may have seen him attending to cases; I cannot say that I met him at all, but I suppose I did. I never went to him in reference to this matter.

Question, (by Mr. Tappan.) When you applied to the judge at chambers, who was present?

Answer. There was no one present, except the judge and myself. When I knocked at the door some gentleman came out, who may probably have been a member of the bar.

Question. Was any person present while you were there?

Answer. No, sir; there was no person present while I was in the room with Judge Watrous. If any one was present, he must have come in as I left. There was no person present when I presented the petition to him for this appeal.

Question, (by Mr. Clark.) Do you know of any reason why Mr. Mussina could not have perfected this appeal during the preceding five years?

Answer. No, sir; I do not know of any reason why it was delayed. If it was appealed on the 13th it was in ample time.

Question. Were you, at that time, aware of any rule of the supreme court requiring a severance, in case of appeal by several of numerous defendants?

Answer. I was not.

Question. Did the Judge suggest anything as to your appeal being in any manner informal or defective?

Answer. He certainly did not; if he had, I would have corrected it. After having read the petition, I told him I was ready to do any and everything that he liked to perfect that appeal.

Question, (by the chairman.) Did the judge say anything to you about the bondsman, or about the character of the bondsman?

Answer. No, sir.

Question. Did he make any objection to the appeal, because of a want of severance on the part of the defendants?

Answer. None. The judge suggested no defect in my application any way.

Question, (by Mr. Clark.) Was your partner, Mr. Alexander, in Galveston at the time you made this ineffectual attempt to get an appeal?

Answer. He was.

Question. Did you acquaint him with the circumstance of your application?

Answer. Yes, I told him about the application.

Question. Did you acquaint him with all the circumstances?

Answer. Mr. Alexander now resides in the city of Austin. He was in my office, and I told him that I was going to make an application

for an appeal I went on and stated to him what occurred, and that I was going to make an application for an appeal.

Question. Did you consult with him, or with any other person, as to the question, whether it was or was not your duty to return to the court?

Answer. I did not consult him on that, for the reason, as I already stated, that I supposed the judge would report to me when he fixed the bond. I considered there was nothing further to be done.

MAY 10, 1858.

I do not state positively the day or days I called on Judge Watrous in open court to fix the amount of the appeal bond; I am positive that I called on him previous to the 15th January, 1857. The petition, I am certain, was presented to Judge Watrous, in chambers, previous to the 10th of January, 1857.

Question. Are we to understand you as having said that you delivered the petition of appeal personally to Judge Watrous?

Answer. Certainly.

Question. And that you left it with him?

Answer. Certainly.

Question. Did you ever, at any time, leave that petition of appeal with the clerk, or with the deputy?

Answer. I did not.

Question. Did you at any time call upon Judge Watrous, in company with the deputy clerk, in relation to the matter of the appeal?

Answer. I did not.

DAN'L D. ATCHISON.

EXAMINATION OF JOHN S. JONES.

WEDNESDAY, MAY 5, 1858.

Examined by Mr. Clark.

Question. Where do you reside?

Answer. At Galveston.

Question. Did you reside there during the years 1850, 1851, and 1852?

Answer. Yes, sir.

Question. What was your business?

Answer. During that time I was engaged as a deputy clerk under Colonel Love, in the federal court.

Question. Had you resided in Texas previously to that time?

Answer. I have resided in Texas twenty years.

Question. Were you deputy clerk during the whole of 1851?

Answer. I was from August, 1850, for the four years succeeding,

and I am authorized yet to act as deputy ; but for two years I have not done so. I hold the authority from Colonel Love, for the purpose of assisting his son.

Question. Do you recollect a class of cases pending in that court, called the Lapsley cases ?

Answer. Very well.

Question. Do you recollect these cases being called on the docket at the April term of 1851 ?

Answer. I cannot say that I recollect their being called at the April term. I recollect when they were first called ; but I cannot say whether it was at the April, the May, or the January term. I think it was the April or May term of 1851.

Question. They were called for trial, were they ?

Answer. They were called for trial.

Question. Who called them ?

Answer. They were called by the judge off the docket, as all other cases were.

Question. What occurred ?

Answer. As soon as the cases were called, Judge Watrous remarked that he would not touch these cases ; that he was interested in them.

Question. Whom did he make that remark to ?

Answer. To the members of the bar, and to the attorneys engaged *pro* and *con* in the cases.

Question. Have you given his language as accurately as you remember it ; or do you mean only to give your impression ?

Answer. I do not intend to give his identical language ; that I do not recollect. I merely know this, that he positively stated he would not touch the cases ; that he was interested in them, and would make no order in them whatever.

Question. Did he say how he was interested ?

Answer. Not to my recollection. He said he was interested in the cases.

Question. Was any response made to that remark by any member of the bar ?

Answer. I do not know that there was at that time ; but there was at some time, either at that term or the next. The attorneys had a talk among themselves, and came to the conclusion they would not remove the cases out of the district, but that they would select some man indifferent to the parties, to try the cases in place of Judge Watrous. Whether it was at that term, or at the next succeeding term, I do not recollect.

Question. Were the attorneys for the defendants in these Lapsley cases in court when the judge called the cases, and said that he would not touch them ?

Answer. I cannot tell you ; there were so many attorneys in the cases. They came into the cases at different times.

Question. Do you recollect a single one that was there ?

Answer. I do not know that I can designate which one.

Question. Do you know Mr. Potter ?

Answer. Very well.

Question. Was he there?

Answer. I do not think Mr. Potter had anything to do with the cases at that time. I think that Judge Hughes was there on the part of the plaintiff.

Question. You say you do not think Mr. Potter had anything to do with them?

Answer. I do not think he was there at that time, or interfered in that conversation.

Question. Do you recollect any appearance in court on the part of any of the defendants in any of the cases?

Answer. My impression is that at the first time the cases were called, nobody appeared for the defence at all. The Judge merely remarked that he would not touch the cases, and they were passed along.

Question. Were you sitting as clerk?

Answer. Yes; I was present at the time as clerk.

Question. Did you make the order for continuance?

Answer. I am under the impression that I did. I haven't looked at the records for two years, and cannot tell. In cases of that kind my practice was to make a single entry of the word "continued," because it was continued for no special reason—not by affidavit or otherwise.

Question. Did you make any other orders in these cases by the direction of the court?

Answer. There were orders made in these cases, not by direction of the court, but by an understanding between the parties.

Question. When was that?

Answer. My impression is that the second term that the cases were called was the January term of 1852.

Question. Were they called the same way as at the April term?

Answer. When they were reached, I think this arrangement was made; it was known by the attorneys that Judge Watrous would not try them, and I think that at that time the arrangement was made to select an indifferent person to try the cases.

Question, (by the chairman.) State how many terms there were in 1851, if there was more than one?

Answer. My impression is there was more than one. The terms were irregularly held; one term often ran up to another. The Judge sometimes held as many as three terms in the year—usually two.

Question. Was the arrangement of which you speak, about a third party being called in to try the cases, made in open court?

Answer. Yes; I heard it among the attorneys while I was sitting there.

Question. Who were parties to that arrangement?

Answer. I cannot tell. I know that Judge Hughes was one of them, and I am satisfied, also, that John W. Taylor was another. I heard afterwards that the agreement was to be carried out in Austin, and the papers were sent to Austin.

Question. Was Mr. Potter there at that time?

Answer. I am not certain.

Question. Do you recollect anybody that was there a party to that arrangement except Hughes?

Answer. I cannot say positively that I recollect any other attorneys. Some one was there, but who I cannot say.

Question. Did you make any entry in the minutes to give effect to that arrangement?

Answer. I think there is an entry to the effect of removing the papers to Austin. There was no entry made in the minutes about calling in a third party.

Question. By whose order did you make the order transferring the cases to Austin?

Answer. Understanding this arrangement between the parties, and a general order of the court requiring all cases to be removed to the several branches of the court where the defendants resided, I was authorized to do it on application of the parties for the papers.

Question. You are a lawyer, I believe?

Answer. Not much of a one.

Question. Were you not counsel for Mussina at one time?

Answer. No, sir; never.

Question. Did you make the order for the removal of these cases to Austin by the direction of Judge Watrous?

Answer. No, sir; Judge Watrous refused to make any order in the cases. They were made by the agreement of the parties.

Question, (by Mr. Billinghamst.) Was that agreement in writing?

Answer. I think not. It was a mere verbal agreement, which I understood in conversation between the persons engaged in the cases. If there ever was a written agreement I do not recollect seeing it, and I am pretty sure it was never filed in the cases.

Question. Was there any uncertainty as to the fact of the court being held in Galveston in January, 1852?

Answer. I can only speak for myself. I was uncertain about it. I did not know, nor did I believe that Judge Watrous would hold that term of the court there.

Question. Why did you think so?

Answer. He was absent, and I thought he could not get there in time to hold the court.

Question, (by Mr. Billinghamst.) Where was he?

Answer. I think he was here or in New York.

Question. Did you have any occasion to communicate with him?

Answer. I did not. I never had any communication with him. I got my information as to his determination to hold the court there through the marshal or his deputy.

Question. And you never inquire of Judge Watrous whether he would hold the court or not?

Answer. No, sir; I never inquired at all. I had no means of inquiring without writing to him.

Question. And you made no inquiry and knew nothing about it?

Answer. No, sir, except by the marshal. I got my information through him.

Question. You were present during the whole of the January term 1852?

Answer. Yes, sir ; I was present there all the time.

Question. Were you in court when the decision was pronounced in the case of Cavazos against Stillman and others ?

Answer. Yes, sir.

Question. Was there any counsel there for the defendants, or any of them ?

Answer. Mr. Atchison was present.

Question. What occurred ?

Answer. When the decree was presented by Mr. Hale, Mr. Atchison made objection.

Question. Was the decree presented at the same time that the judge pronounced his judgment ?

Answer. The case was heard at one term of the court, and was held over to the next term, and then the decree was pronounced by the court.

Question. Was Hale there at the time it was pronounced ?

Answer. Yes ; he wrote the decree himself and handed it in.

Question. Had he the decree ready when it was pronounced ?

Answer. The decree was prepared in accordance with the instructions of the court, I think.

Question. After the rendition of the decree ?

Answer. The proceeding would be this : after the judge had formed his opinion in respect to it, he would state the grounds of his opinion, and direct the attorney to prepare a decree in accordance with his judgment. That decree is prepared and presented to him.

Question. I ask was done on that occasion ?

Answer. This is just what about what was done.

Question. How long after, if at all after, the judge pronounced his opinion was the decree read ?

Answer. When this decree was presented to the judge, Mr. Atchison made objection.

Question, (by the chairman.) How long was the judgment of the court pronounced before the decree was written out by Mr. Hale and brought into court ?

Answer. It may have been a day or two.

Question. Do you recollect how long ?

Answer. I cannot tell you positively.

Question, (by Mr. Clark.) Were you present in court when the judge pronounced his decision ?

Answer. I was present at the time.

Question. Was Atchison there ?

Answer. Atchison was there.

Question. Who was there for the plaintiff ?

Answer. Mr. Hale.

Question. Was that the occasion when Mr. Hale presented the decree and Atchison objected ?

Answer. Hale was there all the time ; Atchison was there on that occasion, and made objection to the decree at the time this paper

was presented. I am satisfied Mr. Atchison was present, and until the decree was granted.

Question. Was this proposed decree produced at the time the judge pronounced his decision?

Answer. No, sir; it could not have been.

Question. The substance of your testimony is that it was.

Answer. It was not that day. The judge gave his opinion and the decree was prepared, by his instructions, by Mr. Hale.

Question. Afterwards?

Answer. Afterwards, necessarily.

Question. How long afterwards?

Answer. I cannot tell you.

Question. What was said by Mr. Atchison when the judge pronounced his decision?

Answer. I do not know that he made any remark at the time, but when the decree was handed in for the examination and signature of the judge he did make objection.

Question. What did he say?

Answer. His objection amounted to just this, that he thought it was wrong in the judge to render a decree without letting the leading counsel on the opposite side of the case have a chance of examining the decree. Mr. Howard was leading counsel on the other side.

Question. What did the judge say to that?

Answer. I can only recollect generalities. I think that the judge's remark amounted to this, that he did not think he could keep that decree suspended there forever, on account of the absence of Mr. Howard, who was absent, and not likely to be there.

Question. Was anything said by Atchison as to the uncertainty of that term being held?

Answer. Not that I am aware of; my attention was called to that more particularly from the fact that Mr. Hale got vexed about it, and was a little sharp in his language. He said that the decree had been delayed six months, and that he thought he was entitled to it at the last term of the court; and Mr. Atchison seemed to be vexed too.

Question. What did the court determine about it?

Answer. Signed the decree, as prepared according to his orders, and had it filed.

Question. Did you hear the judge say anything about an appeal, or anybody say anything about an appeal?

Answer. I have have heard so much about appeals that I cannot recollect; Mr. Atchison may have given notice of appeal at that time, but I do not recollect.

Question. You do not recollect the judge saying anything about facilitating an appeal or keeping the court open.

Answer. I do not think that at that time an appeal was mentioned at all.

Question. Do you recollect the court being kept open at any time for the sake of facilitating an appeal?

Answer. I do not know, positively, that it was kept open for that purpose, but I heard it was; I know nothing about it.

Question. Did you carry any message to Mr. Atchison, telling him that the court was open for the purpose of facilitating an appeal?

Answer. I do not recollect that I did.

Question, (by Mr. Billingham.) Were you sitting as the acting clerk at that time?

Answer. Yes.

Question. Was Colonel Love present?

Answer. In all probability he was not; I do not think he was.

Question. When the court was open during that term, you were necessarily there?

Answer. Not at all times, but I was usually at the desk doing the business of the clerk. Colonel Love was usually walking about, and listening to what was going on.

Question. Supposing Colonel Love was not there at all during that term of the court, were you there all the time?

Answer. Yes, sir; during the whole term. I always attended to the duties of the office.

Question, (by Mr. Clark.) And you have no recollection of any such circumstance as carrying a message, or a message being sent, that the court was kept open after the usual time of adjournment?

Answer. I know that the court was kept open, but for what purpose, I cannot tell.

Question, (by Mr. Taylor.) You mentioned that the judge pronounced his decision, and that afterwards the decree was written out in conformity with the views expressed by him. When did he pronounce his decision?

Answer. I am under the impression that it must have been the day before the preparation of the decree.

Question. Is there any entry made on the minutes when the judge gave his judgment?

Answer. I imagine not; I do not know that I have any distinct recollection of proceedings in that case as distinguished from the proceedings in every other chancery case.

Question. Do you recollect the time when he pronounced his decision?

Answer. I do not.

Question. Do you recollect the time when you heard the judge pronounce his decision in open court, and give directions in open court to Mr. Hale to draw up the decree?

Answer. I cannot recollect that distinctly.

Question. What you recollect is the time when Mr. Hale presented the decree and the court read the decree?

Answer. Yes; I recollect that very distinctly.

Question. When was that?

Answer. I cannot tell you exactly when that was.

Question. Was that not recorded?

Answer. The decree was, as a matter of course.

Question. Have you any recollection of the time that elapsed between the period when Judge Watrous entered his decision and

directed the making out of the decree, and the presentation of the decree by Mr. Hale?

Answer. No, sir; I have not.

Question, (by the chairman.) I understand you to say that this conversation you have spoken of, about an agreement to have a lawyer preside and try the Lapsley cases, was had at the first term at which the cases were called?

Answer. Such is my impression. I am not positive about it. I am confused about these terms, and I may get them mixed up in my mind.

Question. And I understood you also to say that you believed that was in January, 1852?

Answer. My impression is just this: at the first time the cases were called, Judge Watrous refused to meddle with them at all.

Question. At what term of the court was that?

Answer. That I cannot say.

Question. Have you no idea?

Answer. Yes; I think it was the April or May term, 1851—the spring term of 1851.

Question, (by Mr. Clark.) I observe, in the minutes of the court of January term, 1852, certain orders erased, and noted as “erroneous” in the margin; you kept the minutes of the January term?

Answer. Yes, sir.

Question. This entry, under date of January 6, 1852, in the case of Lapsley against Mitchell and Warren, is in your handwriting?

Answer. Yes, sir; that entry was made in error by me.

Question. In whose handwriting is this word “error”?

Answer. Mine—the whole of it.

Question. These words, “and by consent of parties,” when were they interlined?

Answer. I do not know when they were. They were done by myself; it is all in my handwriting.

Question. Was this interlineation made at the same time, or afterwards?

Answer. It was made at the same time; I have no doubt of that fact; I never altered a thing of that kind in my life.

Question. How did you know that that was an error?

Answer. I do not know now how I found out the fact. It is so long ago that I cannot tell you. I cannot tell wherein the error exists.

Question. What induced you to correct it?

Answer. A knowledge of my own that there was something erroneous in it.

Question, (by Mr. Billingham.) Does not the word “error,” as entered there, appear to be in a different colored ink?

Answer. I do not know whether it is or not. It is my handwriting.

Question. Does it not appear to be in a different colored ink?

Answer. The one outside does; the one across the entry is not;

it is in the same ink. That difference might occur from having ink-stands down below, and up stairs.

Question, (by Mr. Clark.) Do you recollect the fact of your writing these words, "by consent of the parties"?

Answer. No; I know I did do it.

Question. Do you know what parties consented?

Answer. I do not. I presume the attorneys were present for both parties. That is all my own work.

Question. Do you know how you came to correct any of these errors in the case of Lapsley against Marlin, January 6, 1852; are these entries, "erroneously entered," in your handwriting?

Answer. All of them are in my handwriting.

Question. Do you know how you came to correct it?

Answer. I cannot tell now.

Question. By whose order?

Answer. I had nobody's order about it. It was done by myself, and of my own volition.

Question. How did you know it was erroneously entered?

Answer. I had some information, perhaps, which induced me to make the change; but I cannot tell.

Question. Would you have felt at liberty to change the minutes of the court, where so important a thing was done as to transfer the case, without the order of the court?

Answer. I would not have felt at liberty to change the order of the court at all; but if I made an entry not in pursuance of the order of the court, I would feel at liberty to make an entry in place of it in pursuance of the order of the court.

Question, (by the chairman.) Do you read those minutes over regularly to the judge?

Answer. Yes; every morning.

Question. And if he discovers an error in them he points it out, and has it corrected at the time?

Answer. Yes; and the attorneys likewise.

Question. These minutes were read to him the day after the entry?

Answer. In all probability.

Question, (by Mr. Clark.) Do you know how long a time it was after the making of the entry that you made these corrections?

Answer. It may have been at the time, or probably the following day. There may have been some error in it which the attorneys pointed out.

Question. Here is another entry, "Lapsley vs. Mitchell and Warren;" and "same against same," "not entered in the form agreed upon by the parties; see over next page"?

Answer. I have no doubt in the world that the attorneys, when that was read, disliked it; that it did not conform to their agreement, and that they wanted the order re-entered, and that I made that entry. You see I have not rubbed it out. I have left it there all distinct; no attempt at hiding it.

Question. Were you present on the trial of Ufford vs. Dykes?

Answer. I was.

Question. Do you recollect anything of any power of attorney being produced on that trial?

Answer. I recollect that there was a power of attorney necessary to complete the chain of title, and that it was admitted without reading and without discussion.

Question. Who admitted it?

Answer. The attorneys who were present—Judge Hughes and Thomas Hughes on the one side, and Mr. Hale, and Mr. Potter, and Mr. Merriman on the opposite side.

Question. Was the paper produced?

Answer. I cannot say. My impression is that the paper was not produced. When a paper was picked up, and both sides knew what it was, the reading was dispensed with, and it was laid aside.

Question. It was called "*testimonio*?"

Answer. No; a "*testimonio*" is one thing. I saw papers of that kind. Where all the parties know what they are, they are most commonly not read.

Question. Was the paper produced?

Answer. I cannot say positively that it was; but for a long time I thought, and think yet, that I never saw it there.

Question. Was any copy or alleged copy produced?

Answer. They had a copy there.

Question. Did you see it?

Answer. I do not know that I saw it. My attention was not called to the original; I think I never saw it.

Question. Did you hear anybody state what it was?

Answer. I cannot distinguish what I may have heard at that time from what I may have heard at other times.

Question. Did you hear any statement of its contents made by counsel?

Answer. If it was present there at all, it was passed by in this way by the attorney: "Here is a power of attorney;" the reading was dispensed with, and there was no discussion. It was admitted by counsel, and put in as testimony, without discussion, without remark, and without objection.

Question, (by Mr. Taylor.) Do you recollect how it was described? Was it described as the power of attorney to "so and so?"

Answer. I cannot tell how it was done. My recollection is distinct as to this fact. The power of attorney was admitted as evidence, without reading, without discussion, and without objection.

Question, (by Mr. Billinghamst.) What makes you recollect that?

Answer. I had some connexion with the cases; I had taken testimony in them. One of the men interested in them was Mr. Hanrick, an old friend, and I felt some interest in them.

Question. Had there been any previous arrangement between the parties as to this power of attorney?

Answer. Not that I am aware of?

Question. You know something of this power of attorney?

Answer. I rather know nothing of it than know something. I know that the attorneys for the plaintiff were not satisfied exactly to go to

trial, because they had not the original. They knew of its existence, but did not know how to reach it.

Question. Who had it?

Answer. They subsequently found out who had it.

Question. Who?

Answer. Thomas M. League.

Question. Was he there?

Answer. Yes; he was there in town.

Question. Why did they not compel him to produce it?

Answer. I do not know that they knew he had it at that time?

Question, (by Mr. Billinghamst.) Did you enter an order transferring all the Lapsley cases in which there was an agreement made to Austin?

Answer. I intended to have done it; such was my intention; but afterwards, on looking over the record, Judge Hughes called my attention to the fact that one of the cases was omitted. That was the Spencer case.

Question. Any other?

Answer. Not that I recollect. I recollect his calling my attention particularly to that case.

Question. How long afterwards?

Answer. Probably some months—some considerable length of time.

Question. Did you make out the transcript of the record that went to Austin in these cases?

Answer. Yes, I think so.

Question. How did you transmit these cases to Austin?

Answer. I sent them by Mr. Ballinger.

Question. When did you deliver them to him?

Answer. A long time afterwards. It was understood that the papers should be taken up; I would not risk them by mail, and I would not permit either the plaintiffs or the defendants to have custody of them.

Question. How long afterwards?

Answer. I cannot tell how long; probably six or eight months, perhaps a year.

Question. Was it in the year 1852?

Answer. I cannot tell; it was a good while afterwards.

Question. How came Judge Hughes to call your attention to the fact that you had not entered an order in the Spencer case?

Answer. I cannot tell. He came into the court house one day, after the entries were made, and, said he, "you made a great mistake; you did not make that entry." I told him it was not a very important matter any way, for if the papers got to Austin without entries, they would be sent back to Galveston.

Question. Was that after the papers had gone to Austin?

Answer. Yes.

Question. Did you ever enter an order in the Spencer case?

Answer. I made no such order as that afterwards.

Question. Who was the attorney for Spencer?

Answer. I do not know; probably John Taylor might be put down as the attorney of record.

Question. What name appears on the papers?

Answer. I cannot tell you that.

Question. Do you know that John Taylor was the attorney for Spencer?

Answer. I do not.

Question. Do you know that anybody, as attorney for Spencer, entered into an agreement with Judge Hughes for the transfer of the Spencer case to Austin?

Answer. I cannot tell that positively; that Taylor appeared in the cases I am satisfied.

Question. Did Judge Hughes call your attention to any other beside the Spencer case?

Answer. I have no recollection of his having done so, except in the Spencer case.

Question, (by Mr. Billinghamurst.) Did Judge Watrous call your attention to the fact that the orders which you entered were erroneous?

Answer. There were some entries, about which Judge Watrous got angry with me; it was the only time he ever spoke sharply to me. He said to me, "I will have nothing to do with these orders, and your entry must make the order so as not to implicate me one way or the other. I will not have anything to do with these cases."

Question. Did you make out the writs when the Lapsley cases commenced?

Answer. I do not know whether I did or not.

Question. Did you know of Judge Watrous' interest in these cases before the April term?

Answer. I never heard of it till he announced it himself.

Question. You never heard of it in your office?

Answer. Never, till he announced it from the bench; nor do I know yet to what extent he has an interest.

Question. Did you ever enter on the books a declaration of interest?

Answer. I do not know that I did, unless it is contained in these orders. I never made any other entry than those in the minutes. If they contain such a declaration, I am not aware of it.

Question, (by Mr. Taylor.) When you make entries of this kind, on what authority do you make them?

Answer. Understanding the agreement of the parties, and the assent of the court that such an order should be made, and understanding the terms and conditions of the order, I frame it in my own way.

Question. But you took it down at the time, here or elsewhere?

Answer. I kept a scratch book, to enter all sorts of things in—memoranda of every kind.

Question. I wish to know whether, when you entered these orders, you did so as you understood them to be given by the court, or agreed on by the parties?

Answer. Yes, that is the way.

Question. When the court adjourns you write that out?

Answer. Sometimes I write these orders out as I go along.

Question, (by Mr. Taylor.) It depends upon your convenience?

Answer. Yes, sir.

Question, (by Mr. Clark.) Look at your book, under date of August 5, 1852, and explain the marks there.

Answer. They are made to show that the entries have been made. That is my private memorandum book.

Question. You mark these out when you have made an entry in your minute book?

Answer. Yes, sir.

Question. Were these Lapsley cases transferred August 5, 1853?

Answer. I do not know. These dates here have no connexion with anything that may follow. This may be 6th, 7th, 8th, or 10th.

Question. When was that done?

Answer. It was done during that term of the court, January, 1852. Here go on other cases.

Question. You are sure that that was done at the January term, 1852?

Answer. I feel satisfied that it was.

Question. If these cases were transferred in 1852, why was the entry made in August, 1853?

Answer. I cannot tell.

Question. Whose handwriting is that?

Answer. It is mine.

Question. How came you to do that?

Answer. It is a memorandum. I would understand that what it meant was to be done. All the cases I would understand in which Judge Hughes is interested are to be transferred under the order of the court, and that I am to make transcripts of them. I make these entries for my own convenience.

Question, (by the chairman.) Are you not satisfied that that is a memorandum to you to transfer the Lapsley and the other cases mentioned as cases in which Judge Hughes was interested as a lawyer to Austin?

Answer. I do not know that this has any connexion with the other. I regard these as separate and distinct entries. The first is John Cameron *vs.* Napoleon Thompson. The next is the cases in which Judge Hughes is interested most. The next after that is the Lapsley cases—something to be done with them, what I cannot tell. There is a line left between the entries.

Question, (by Mr. Clark.) There is no line drawn?

Answer. There is a line, a space left between them.

Question. I understand, then, that while this is in August, 1853, in January, 1852, the entry for the transfer of the Lapsley cases was made, or that then the agreement for the order was made?

Answer. The entries are made here for transfer. What time I made out those transcripts I have no idea. I did not make them out until I expected they were needed. It may have been a year before I made them out.

Question. How much is the minute book behind the blotter?

Answer. It ought not to be behind at all; some refer to other things.

Question. There is the word *make*?

Answer. Yes, sir ; and I take it that it was for me to make on the transcript.

Question. "The cases of Judge Hughes transferred to Austin, make ;" does not mean, make certified copies?

Answer. I do not think that it has any connexion with it whatever.

Question, (by the chairman.) When was the term of the court established at Austin?

Answer. I cannot remember. I cannot tell when the law was passed authorizing it.

Question. Did any of the lawyers at Galveston practice at that court, commencing with its first term at Austin?

Answer. I cannot say that they did. In all probability some of them did.

Question. Who called for the transcripts in the Lapsley cases for the purpose of taking them to the court at Austin?

Answer. I cannot tell. After this agreement, the cases lay for a length of time before they were transferred.

Question. When were they called for?

Answer. That I cannot say.

Question. When were they transferred from your office?

Answer. I cannot tell you the date. I can only say that it was sometime after the order of transfer—a length of time.

Question. Why do you say a length of time, when you say that you do not recollect when they were called for?

Answer. I can recollect that it was a considerable length of time afterwards, without recollecting the particular day of the week or month.

Question. Have you any idea that they were called for in the spring, summer, or winter?

Answer. I do not know what time they were called for. They were called for before the commencement of the Austin term, and when Mr. Ballanger was going up.

Question. When did he go up?

Answer. My impression is that he went up before the term of the court commenced.

Question. The first term?

Answer. I do not know whether the first or second term. It was the term he was then going up to.

Question. Who directed you to hand them to Mr. Ballanger?

Answer. My recollection is that the parties desired Mr. Ballanger to take them. Mr. Love directed me to give them to him.

Question. Did the parties say to you that they were satisfied with that?

Answer. I do not know where I got my information from.

Question. Did Judge Hughes tell you that he was satisfied that Ballanger should take them?

Answer. I do not know.

Question. Did Mr. Spencer?

Answer. I do not know that I ever saw him.

Question. Did Mr. Taylor, the lawyer?

Answer. I do not think it is probable that he did.

Question. Did Mr. Howard, or Mr. Swett?

Answer. It is probable that they may have done it?

Question. Did they say that they were satisfied?

Answer. I would not say that. I do not know how I got my information that they were satisfied. I got my directions from Colonel Love, and I sent them up by Mr. Ballanger.

Question. When were those directions given?

Answer. I cannot state that. It was before Mr. Ballanger took them up.

Question. At the time were the transcripts ready to be signed?

Answer. They never were made out until I got that order. I do not think that they were. It would be a violation of my way of doing things if I had done it. I am satisfied that they were not made out until I knew they were wanted.

Question, (by Mr. Clark.) Did you ever at any time make out an order for a transcript of Spencer's case?

Answer. Not that I am aware of. Judge Hughes called my attention to the fact that there was no entry on the books. I never meddled with it afterwards. The papers never came back to Galveston, to my knowledge. The next I heard of the case after I sent them all up, it was in New Orleans.

Question. How did Spencer's case get to New Orleans?

Answer. I do not know. I tied it up with the Lapsley cases, and sent it up to Austin. I thought that the same order was entered there as in the other cases. It was an oversight or an omission of mine, and I did not detect it until Judge Hughes called my attention to it.

Question, (by Mr. Billinghamst.) If there was no order to have it transferred, was it an omission on your part?

Answer. It was not an omission. I ought not to have made the entry. If there was no agreement, properly the entry could not have been made. I would not venture to make an entry of that kind, except in obedience to an order or agreement.

Question, (by the chairman.) You say this "docket," what docket is this?

Answer. It is the court docket.

Question. One the judge keeps before him?

Answer. Yes, sir.

Question. I notice opposite the Lapsley cases the word "continued;" in whose handwriting is that?

Answer. That is Judge Watrous'.

Question, (by Mr. Clark.) Do you make orders corresponding?

Answer. I always make an entry in a case of that kind. I would have made the entry without that.

Question, (by Mr. Ready.) Did Judge Watrous have any connexion with that private memorandum book of yours?

Answer. No, sir.

Question. Did Judge Watrous ever give any directions to you about transferring those suits, by whom the records were to be sent, or

have any connexion with the transfer, except so far as anything may appear on the minutes of the court?

Answer. Not to my knowledge.

Question, (by Mr. Tappan.) I understood you to say that you did not know that the court was kept open at the January term, 1852, for the purpose of allowing an appeal to be taken. Do you know whether it was kept open for any purpose?

Answer. It was kept open until Judge Watrous was about leaving the city. I do not know what the purpose was.

Question, (by Mr. Billingham.) How do you know that it was kept open?

Answer. I was there. I called on him to sign the records before he left. I know that it was kept open. I had my minutes up and they were ready to be signed.

Question. If the court was ordered to be kept open, would it not be a subject of entry in the books?

Answer. I do not know whether Judge Watrous held a morning session. If there was nothing to do, ordinarily he would adjourn; but if there was anything holding back, he would say, "Don't adjourn the court yet; keep it open and I will be back at 2 o'clock."

Question. Would the book show whether the court was kept open?

Answer. It would not.

Question. Would it show that it was continued from day to day?

Answer. Yes, sir.

Question. Would there be an entry that the court was closed and would be open to-morrow?

Answer. Yes, sir.

Question, (by Judge Watrous.) Was there any business done at the term of 1852, after the rendition of the decree in the Cavazos case; and, if so, what was it?

Answer. I am under the impression that there was none done; I have not looked into the record.

Question. If after the closing of the business, I were to give an order for the court to be held open would that order appear upon the records?

Answer. No, sir; it would not. Unless there was an adjournment of the court there would be no such order.

Question. Look at the record book and find the entry in 1852, or the order transferring the Lapsley cases, and tell me whether you made that, and when you made it?

Answer. That was made January, 1852, and by me.

Question. Did you make that entry?

Answer. I made it on the 6th of January. I made the whole of it.

Question, (by Mr. Clark.) By whose order did you make that special entry in relation to previous orders?

Answer. Judge Watrous insisted that it should be done. He insisted that it should be shown that he had not meddled with the case.

Question, (by Judge Watrous.) Was it not done in presence of counsel?

Answer. Yes, sir.

Question, (by Mr. Clark.) How do you know that they were present?

Answer. I know that they were there discussing the cases.

Question, (by Mr. Billinghamurst.) Have you ever seen any written agreement between the parties?

Answer. I do not think that there was any.

Question. You are under the impression that you sent none to Austin?

Answer. I did not. There may have been one, but I have no recollection of it.

Question. Would it have been entered in the books?

Answer. It would have been filed, but not entered.

Question. Had you a fee for filing papers?

Answer. Ten cents is allowed for filing a paper, and in the fee bill it would be noted whether such a bill had been filed. The filing of papers is not entered, unless for some special reason.

Question, (by Mr. Ready.) Everything which appears in that book was done in open court?

Answer. It was done in open court, and in presence of some one representing the parties. There is nothing there that was not done in open court.

Question, (by the chairman.) Do you mean to say that, at the January term, 1852, there was an attorney at Galveston representing Mr. Spencer?

Answer. I could not state positively that there was one; because if I could, I could say who he was, and that I cannot do. John Taylor appeared there for some one.

Question. Who did Taylor appear for?

Answer. I cannot tell whether he appeared for all, or only a portion.

Question. Who else appeared for any of the parties?

Answer. I do not recollect hearing much talk from anybody but Taylor.

Question. You say that you do not know of anybody who appeared as counsel for the defendants there, unless it was John Taylor?

Answer. I don't know. I am under the impression he did.

Question. Do you say that John Taylor was present when these agreements were made?

Answer. I will not positively say he was, because I do not know. There were several attorneys in the case, and I do not know which of them were there.

Question. You say there were several attorneys—can you mention any of them?

Answer. I noticed that Mr. Howard was one of them.

Question. Was he present at this agreement?

Answer. I cannot say. I think not, though.

Question. Was there another attorney than Howard, Swett, and Taylor?

Answer. I do not recollect. When the attorneys came into the case I cannot tell.

Question. I understand you to say that you have no recollection

whether Taylor was present when these agreements were made, and that you do not believe Howard was there?

Answer. I do not believe Howard was. I believe that Taylor was. I am satisfied that Mr. Swett was not. He was not there at the time.

JOHN S. JONES.

MONDAY, MAY 10, 1858.

Examination of John S. Jones continued.

Question, (by Mr. Clark.) Do you recollect any application made at any time by any person for the allowance of an appeal in the case of Cavazos vs. Mussina?

Answer. None whatever. I have no recollection of anything of the kind at any time.

Question. Do you know Mr. Atchison?

Answer. Very well.

Question. Do you recollect seeing Mr. Atchison in court at all during the January term, 1857?

Answer. I do not recollect seeing him, although it is very probable he was there. Nothing transpired to call my attention to it.

Question. Did you attend the court constantly during that term?

Answer. During the fore part of the term I was in court, I believe, every morning at the opening of the court, and remained there during the session of the day; but, towards the latter portion of the term, I was not always there; I was absent some few days entirely.

Question. Do you recollect Atchison making any application in open court at that term at all?

Answer. I never heard anything of it until long after the court had adjourned, and until very recently.

Question. When did you first hear that any application had been made at that term?

Answer. When I was informed that Mr. Hale had sent down from this place for affidavits in regard to it, I was applied to to state what I knew of the matter on the part of Mr. Hale, who was making some motion in the supreme court to dismiss an appeal. I cannot recollect the date, but it was after the close of the term, and not long since.

Question. Am I to understand that you were never informed that there was any effort made to have the appeal allowed, until the question arose in the supreme court on an application for a mandamus against Judge Watrous?

Answer. That is what I mean to state.

Question. Do you recollect the paper called the petition of appeal being placed in possession of the clerk of the court some time in January, 1857?

Answer. I never saw it at all; and never heard of it until that time, and know nothing about it.

Question. Do you recollect hearing the judge say, during the January term, 1857, that he would do nothing till the attorney for the plaintiffs was in court?

Answer. I do not recollect ever hearing him make any remark about it. I have no recollection of anything of the kind, except the appeal from Mr. Shannon.

Question. Was that taken in open court?

Answer. I do not recollect what proceedings were taken, but Mr. Tucker, the attorney for Shannon, and I, had talks about it time after time.

Question. When did your personal attendance on Judge Watrous' court, as deputy clerk, commence?

Answer. It commenced sometime in the month of August, 1850.

Question. When did it cease?

Answer. It ceased, I think, about the 1st of January, 1855; that is, my active connexion as deputy clerk ceased then. Since then I have held authority to act as clerk, but I have not done it.

Question. Not at all?

Answer. Not at all. Since that period I have occasionally attended in court, and have occasionally assisted Colonel Love's son in the discharge of the duties of the clerk's office, and occasionally in court. Still, I suppose there is not an entry in my handwriting for years past. I have very frequently instructed the young man how to make the entries in the books there; but my active connexion with the clerk's office ceased about that time.

Question, (by Mr. Cushing.) You said you were present at the first part of the term, and not at the latter part of the term. State the dates as near as you can recollect?

Answer. I recollect facts distinctly, but not dates. My recollection is, that the term lasted for nearly three months; and I know I was absent toward the last part of the term some few days; probably not more than five or six days during the whole of the term. During the first part, I know I was there every day.

Question. Do you recollect at what day the term commenced?

Answer. I think on the first Monday in January.

Question. Was it a statute term or a special term?

Answer. I regarded it as a term fixed by law; I do not know.

Question, (by Mr. Clark.) Were you in court sufficiently, during the period of the term, prior to the 20th of January, to state affirmatively that no application was made in open court in behalf of Mussina, for the allowance of an appeal in that case?

Answer. I believe I was in court during those days mentioned, and during the session of the court; but I cannot state affirmatively that no application was made. I have no knowledge of any such application having been made.

Question, (by Mr. Cushing.) Have you or not any knowledge on the question, whether the court was not to be held at the January term of 1852?

Answer. I stated, when that question was put to me in another form, before, that I was under the impression that Judge Watrous was so circumstanced that he could not hold the term; yet the only knowledge I ever had in the matter, until the term was held, was derived through the marshal, or his deputy, who came to me and told

me the judge would hold the term. I know that Judge Watrous said he would hold the term, and that he also made the remark that he would not require a jury; that he would take up no jury cases unless he was requested to do so by the parties interested in them, and that then a jury could be picked up for the occasion.

Question, (by the chairman.) When did you get that knowledge from Judge Watrous?

Answer. He stated it in court.

Question, (by Mr. Ready.) What was your business in court, at the January term of 1857?

Answer. I was crier.

Question, (by Mr. Evans.) Did not Mr. Alexander first communicate to you that Judge Watrous had an interest in the Lapsley cases?

Answer. I do not believe Mr. Alexander ever spoke to me about it. Mr. Alexander resides in Austin, and I in Galveston, and I have met him rarely.

Question. Was he not residing in Galveston in 1851 and 1852?

Answer. Probably he was; I think he was; but he has been living in Austin for some years past. I do not think he ever spoke to me about the cases; and I have good reason to think he did not.

Question. You do not recollect that Mr. Alexander ever informed you of his suspicions that Judge Watrous was interested in these suits?

Answer. He never did that I can recollect.

The witness desires and is allowed to make the following explanations, as part of his testimony:

WITNESS. Where I speak of Judge Watrous stating in court that he would hold the January term in 1852, I mean that he stated it in court at the preceding term.

Question, (by Mr. Clark.) Was your attendance in the court, at the January term of 1857, at Galveston, constant or occasional? In other words, were you there continually, or in and out?

Answer. I was unquestionably out of doors occasionally; but I was in constant attendance on the court; my duties required my attendance in the court.

JOHN S. JONES.

WEDNESDAY, MAY 19, 1858.

Examination of John S. Jones continued.

Question, (by Mr. Cushing.) Were you present in the district court at the hearing of the case of Cavazos and others against Stillman and others?

Answer. I was frequently present during the hearing?

Question. Who officiated as clerk during that hearing?

Answer. I believe Colonel Love sat at the clerk's desk during the whole time. I spent most of my time up stairs during the hearing of that case.

Question. Did you hear any of the arguments of counsel in that case?

Answer. Yes, I heard some of it.

Question. Please to state what counsel you heard, and for what parties they appeared?

Answer. My recollection of the matter is just this: that, on the part of Mussina, Mr. Potter, Mr. Hartley, and Mr. Merriman appeared. Mr. Potter, I believe, argued all the questions that arose on the evidence. The argument, I think, was concluded by Hartley. I do not think Merriman had much to say in it. I was only occasionally in the court-room; probably only half a dozen times during the day's session. Mr. Ballinger, I think, appeared for Stillman and Belden, and Mr. Hale for the complainants.

Question. Did you see Mr. Simon Mussina in court during any of that portion of time?

Answer. Mr. Mussina spent his whole time in the court-room, I believe. As often as I went down I found him sitting there taking notes nearly all the time. I saw him there continually when I went down, and after the adjournment he would come up to the room above and talk with me, or get me to make copies for him. I cannot say he was all the time in the court-room. Towards the close of the hearing a disagreement took place between him and Colonel Love; from that date I did not see Mr. Mussina often.

Question. Have you stated the names of all the counsel?

Answer. I have of all that took such a part in the matter as to draw my attention to them.

Question. Did you prepare certificates of any portion of the proceedings of the court in that case at that term?

Answer. Mr. Mussina was in the daily habit of coming into the clerk's office, as soon as the court adjourned, and of looking over the papers that had been filed during the day, and the orders that had been entered, and of procuring from me certified copies of such as he selected or deemed of importance to himself, and I made out a good many papers in that way.

Question, (by Mr. Clark.) Did he do so in any other case than his own?

Answer. I allude only to the case of Cavazos and others. Mr. Mussina was a party in other cases. Simon always represented Jacob, and very probably he may have procured copies of other cases.

Question, (by Mr. Cushing.) Did he assign to you any reason for obtaining these copies from time to time?

Answer. I cannot recollect that he did.

Question. Who officiated in the clerk's office in attendance on the court of the January term of 1852?

Answer. I believe I did; I am not certain as to it. About that time there was a term of the court held at which I officiated entirely.

Question. Have you any recollection of an application being made to you at that term by Mr. John Taylor; and, if so, what was it?

Answer. I do not know that Mr. Taylor made any application to me.

Question. State what you recollect as to the question of costs?

Answer. There was a general order made, in compliance with the law, requiring the clerk to remove all cases, where the defendants happened to reside in another district, to the court in that district. I entered up orders in some of the cases requiring the party defendants to pay costs before they took the papers out. My recollection is that Mr. Taylor made a question about this, and made a long argument about it; arguing that it was a matter of right in the parties to take the cases away without payment of costs, and the court sustained him. The order was rescinded, and other orders were entered. That is my recollection of it.

Question, (by Mr. Clark.) How came you to enter any such order?

Answer. I thought the order was right. I thought the clerk had a right to demand his costs before the papers, which were his security, were taken away.

Question. Why did you select the defendants to pay the costs?

Answer. There was no other person to take the cases away except the defendants.

Question. The plaintiff would leave them there?

Answer. Very likely he would.

Question. Was not the plaintiff as much interested in the prosecution of the case as the defendants?

Answer. I should have made the entry against any one who made the application, whether plaintiff or defendant. I should have required them to pay the costs before they took the papers away.

Question. Did the defendants apply to you for these orders?

Answer. I do not know whether they did apply to me for orders. The cases were ordered to be removed, and that entry was made, and I know it was overruled by the judge.

Question. Did Mr. Love know that you drew the orders in that form?

Answer. I do not think he knew it till after it was done. He may have directed me, but I do not think he did.

Question. Did he direct you to exact these costs from the defendants?

Answer. I do not think he directed me to exact them from anybody. My impression is that I did it without consulting him at all.

Question. Did you at any time read over these orders to Judge Watrous?

Answer. Always in the morning following. That was the daily practice to read over the entries of the day before before any other business.

Question. Have you a recollection of doing it in this instance?

Answer. I have no recollection of doing it in this particular instance.

Question. Did you call the judge's attention to the fact that you had interpolated that condition in his order?

Answer. No; but I think that some one else did.

Question. Was that before or after you had read over the minutes?

Answer. My impression is that at the time I read it over objection

was taken by Mr. Taylor, and that he said he wanted to be heard on that question, and he made an argument upon it

Question. What amount of costs did you exact?

Answer. The costs in each one of the cases was very small at that time, amounting to almost nothing. There had been nothing done in the cases. The probable cost of each case would not have exceeded \$2 50.

Question. Did you suggest any sum to be paid by the defendants on the transfer, including the transcripts?

Answer. I do not think I did. The making out of the transcript took place a long time afterwards, and then the order of the court was there that they had a right to take them without payment of costs.

Question. Do you know whether the costs attending the transfers were ever paid by anybody?

Answer. I do not. They were certainly not paid to me.

Question. Would you have known it were they paid to anybody?

Answer. In all probability I would not have known it.

Question, (by Mr. Billinghamst.) What would have been the clerk's full bill of costs if the cases had gone on to judgment?

Answer. That would depend a good deal upon the amount of documentary testimony adduced; but without much of that it would not come probably to more than \$14 or \$15 in each case.

Question. What would have been the officer's costs?

Answer. I cannot say anything about the marshal's costs, as they would depend upon the mileage.

Question. Are you the taxing officer?

Answer. When I acted as clerk I used to tax the costs; but I do not know the distance to Waco, nor how much the mileage would amount to?

Question, (by Mr. Clark.) Do you recollect in any case imposing the payment of the costs of the plaintiff's attorney as a condition of the transfer of the cases?

Answer. No, sir; because at that time the law did not allow attorney's fees. The law allowing attorney's fees was passed subsequently, I believe.

Question. Can you say whether Judge Watrous had or had not knowledge of your effort to enforce the payment of the clerk's cost out of any party?

Answer. I am very certain he knew nothing about it until this entry was called to his attention.

Question, (by the chairman.) When was that entry made?

Answer. I cannot recollect the date; I only recollect the fact that it was made, and was rescinded on argument?

Question. Was any order ever at any time entered, consequent upon the decision of Judge Watrous on the application of Mr. Taylor or some other person, touching the costs imposed by you as the condition of the transfer of the Lapsley cases to Austin?

Answer. I cannot say. I have not looked at the records. I recol-

lect the order being made, but I did not know in what case until I read the record.

Question. Do you recollect whether any order was made, in any case, annulling the provision requiring the payment of costs as the condition of transfer?

Answer. I do.

Question. In what case?

Answer. Until I saw the record I could not tell. It is in the case of Edward Hanrick *vs.* Thomas S. Menefee and others. That order was entered January 7, 1852, and the following is a copy from the minutes:

EDWARD HANRICK *vs.* THOMAS S. MENEFEE.

On this 7th day of January, A. D. 1852, the motion of defendants, filed on the 6th day of January instant, to rescind so much of the order passed on the said 6th day of January, transferring this case to the branch of this court at Austin, as requires the payment of the fees of the clerk of this court by said defendants, came on to be heard, and after argument of counsel heard, it is considered by the court that the said motion be sustained. It is therefore now ordered by the court, that so much of the said order, transferring this case to Austin, as requires the payment of the fees of the clerk of this court by the defendants therein, be, and the same is, rescinded and annulled, and that said order of transfer be made absolute, without the payment of costs.

Question. Was any order made in any of the other cases transferred, rescinding that part of the order?

Answer. I think not. I think that that is the only order rescinding the order entered for requiring the payment of costs.

Question. Then the cases went to Austin hampered with that decision?

Answer. I do not know that that condition is annexed to the orders. After the passage of this order, rescinding so much of the former order as required the payment of costs in this case, it was not enacted in any case that I am aware of. I do not know that they were paid even in any case.

Question, (by Mr. Craige.) Did you state that it was understood by the clerk, after that order was made, that it settled the principle for all the cases which were removed to Austin?

Answer. Yes, sir. I was acting as clerk myself at the time, and I so regarded it.

Question, (by Mr. Clark.) Do I understand you to say that in none of the cases transferred to Austin, by reason of the residence of the defendants in that district, was the payment of the clerk's fees as a condition precedent imposed?

Answer. After the passage of that order none, to my knowledge.

Question, (by Mr. Billinghamst.) Look at the record I present you in the case of Ufford *vs.* Dykes, and say whether it is a transcript from the Galveston court?

Answer. It is in Colonel Love's handwriting, and appears to be such a transcript.

Question. It has the seal of the court to it?

Answer. It has.

Question. Let me call your attention to what in this record purports to be a letter dated "Galveston, July 6, 1853," written to Colonel Allen, and signed "James Love, by "John S. Jones, deputy?"

Answer. I will state in relation to that transcript of proceedings, that when I made copies I made men pay for them.

Question. Did not the transfer of cases from Galveston to the branch court at Austin involve a transcript?

Answer. Yes, sir; a transcript of proceedings had to go up.

Question. How could you take fees for a transcript when the judge decided that the cases should be transferred without payment of costs?

Answer. I regarded that as applying to the costs in the case outside of copies—costs in court before copies were made. The clerk is allowed so much for making copies, transcripts, or anything else, and my understanding was that he had the right to demand its payment. If there were no orders passed in a case—if there was nothing of that kind, there would be no transcript to make. A case might be transferred in such a state that there would not be a single entry.

Question, (by Mr. Clark.) In the Lapsley cases which were transferred, who paid the clerk's fees?

Answer. I do not know that they ever have been paid.

Question. Who paid for transcripts?

Answer. I do not recollect. They may have been paid to me, but I do not recollect whether they were or not. It is more than probable that I got pay for transcripts if I made them, but not of costs.

Question, (by Mr. Cushing.) Did you ever see this letter of Mr. Love's before?

Answer. I must have seen it.

Question. Did you communicate it to Judge Watrous?

Answer. No, sir.

Question. Had he any knowledge of it, so far as you know?

Answer. Not unless Colonel Love spoke to him about it.

JNO. S. JONES.

EXAMINATION OF JOHN TREANOR.

MONDAY, MAY 10, 1858.

John Treanor, sworn.

Question, (by Mr. Clark.) Where do you reside?

Answer. Matamoras, Mexico.

Question. What is your business?

Answer. Agent for land claims, for myself and other parties.

Question. How long have you been in that business?

Answer. Since 1841.

Question. Are you a relative of Mr. Cavazos?

Answer. I am his son-in-law.

Question. Had you any connexion with the Lapsley cases?

Answer. I had ; I was solicited to take a power of attorney to Saltillo, and prove its genuineness. That is all the interest I had in it.

Question. By whom were you thus solicited?

Answer. By Mr. League.

Question. When?

Answer. I think that it was in the spring of 1857 ; I am not positive about dates. The circumstance I am positive about ; it was in 1857.

Question. Had you any previous connexion with this case?

Answer. None.

Question. Where were you thus solicited?

Answer. In Matamoras.

Question. Had you any previous acquaintance with Mr. League?

Answer. I had not.

Question. Who were in company with Mr. League at Matamoras when you met him?

Answer. I do not remember.

Question. Did you know any of the parties associated with Mr. League in that enterprise?

Answer. I understood there was a man by the name of Lapsley.

Question. I mean associated with his enterprise to Mexico.

Answer. I think that Mr. League arrived at Brownsville alone. He was afterwards associated with others, who were travelling the same road.

Question. For what purpose were you employed?

Answer. For the purpose of ascertaining the genuineness of the document I have referred to, and whether the parties who had executed it were alive.

Question. Had Mr. League that document with him?

Answer. He had.

Question. Was it an original, or a copy?

Answer. It was what we call a *testimonio* ; a copy which is binding upon the Mexican people.

Question. Had you any knowledge of the parties by whom that document was executed, or purported to be executed?

Answer. I had no personal acquaintance with them whatever.

Question. How was Mr. League introduced to you?

Answer. I think that Mr. Hale gave him a few lines of introduction to me.

Question. What did you do in relation to the matter?

Answer. I went in company with Mr. League to Monterey, and he remained there whilst I went on to Saltillo in quest of the parties there who had executed the power of attorney. I found Juan Gonzales, whose name was amongst other signatures to that paper. He was alcalde during the year the power was executed ; he was short-

sighted. I presented the paper to him, and asked him whether that was his signature which was attached to it. He took the paper to the candle ; he examined it closely, and his family gathered around him. They said that it was his signature, and he said that it was himself. They asked whether anybody doubted it ; I told them that there was. The old man said, call upon me in the morning, and I will go with you to the court house, which is close by, and I will prove that the signature is mine. I told him that the proof was to be taken, not for a Mexican, but for an American court. I asked him whether he would accompany me to the Rio Grande to prove his signature, and the genuineness of the document. After a parley he, expressing his dislike to leave his family and his business, consented to accompany me to the Rio Grande. He was a tanner, and had a tanyard in Saltillo. He had a saddlery there, and was engaged in other like occupations. He had a large family of children, principally females. He objected strongly to going with me. I got him to go, telling him that he should be paid all of his expenses, and that parties should be paid who should represent him in the tanyard and in his other business.

Question. Why did not Mr. League go with you to Saltillo ?

Answer. I cannot exactly tell you ; I think that he felt tired and fatigued. It was the warm time of the year. I did not consider there was any necessity for him to go ; I believed that, if there was any chicanery or humbug about the business, it could best be detected by my seeing the parties alone. I did not want to travel with Mr. League and other parties, because there were a great many annoyances to be met with in going through the country.

Question. Because of these annoyances, you wanted to go alone ?

Answer. I would not return that way for ten times the amount I received for my services, and from that you can learn why I wished to travel alone. I was afraid of the parties. I afterwards learned that there was a man concerned in opposition by the name of Aguirre, who lives in San Luis Potosi. He was a man of considerable influence, and I would not care to expose my person carelessly, being opposed to that man's interest.

Question. And therefore you preferred to be alone ?

Answer. Yes, sir.

Question. What amount of money did Mr. League give you ?

Answer. I think some \$1,300 for my trouble. I would not take \$10,000 and return upon the same service.

Question. Was this \$1,300 for your service ?

Answer. Yes, sir. I left my business unattended to in Matamoras. I considered it not too much, but, on the contrary, rather too little ; some might consider it large.

Question. Did Mr. League authorize you to make any expenditures in Saltillo ?

Answer. Mr. League observed to me that if I could adjust the matter for a reasonable amount, he empowered me to do so, as he wished to avoid lawsuits, and running from one court of the United States to another. He empowered me to offer a small amount to any of the

parties who wanted to settle—to this Tomas Vega, or Tomas de la Vega, for instance.

Question. What did he say about him?

Answer. He said that, to avoid lawsuits, and going to and from the courts, it would be best to pay that man a little trifle. When I went and conversed with La Vega, he laughed at the idea of coming to any understanding to avoid lawsuits. He said that he had the Mexican minister at Washington, and that Aguirre had the Mexican minister to see that they got their lands; and that those lands were worth an immense amount of money, and it was, therefore, nonsense to try to make a compromise with the parties in the way proposed, on account of the smallness of the amount. José Maria Aguirre, Rafael Aguirre, and Tomas de la Vega were equally interested.

Question. What amount did Mr. League authorize you to expend to procure a release?

Answer. He said that I might go as high as \$2,000. They said that it was a miserable sum for a release.

Question. Did he furnish you with any money or credit for the purpose of paying any sum you should contract to pay for such a release?

Answer. He furnished me with a credit to about that amount—\$2,000, so far as I can recollect.

Question. In addition to the sum paid you as your compensation?

Answer. Of course, that was independent of my compensation.

Question. What is the whole sum you received from Mr. League?

Answer. I do not remember. I remember the \$1,300 which I received. The agreement with the other parties I never thought of again.

Question. Did Mr. League inform you whether he had any communication with Mr. La Vega or either of the Aguirres?

Answer. He did not; I do not think he had.

Question. You were to see what you could do?

Answer. It was to ascertain the genuineness of the signature of Juan Gonzales—whether the signature attached to the power of attorney was his or not.

Question. Had you any difficulty as to the allegation touching the genuineness of that document?

Answer. I had none. I heard that that document was said to be manufactured and false. The matter was talked of as we travelled along the road.

Question. From what party?

Answer. Mr. League and myself talked on the subject. He said that the document was looked on in court, as not genuine. From the moment I saw it, I was convinced that it was genuine. I am in the habit of looking at those papers in Mexico, and if it were a spurious document, I should not have carried it.

Question. What did Mr. League refer to?

Answer. I do not remember. He said, as near as I can recollect, that it was alleged that it was not a legal document, and that it was considered to be a kind of got-up affair.

Question, (by Mr. Craige.) The opposite party charged him with having a got-up document?

Answer. Yes, sir. It was stated to be a perfect sham.

Question, (by Mr. Clark.) Or forgery?

Answer. No ; I will call it sham.

Question. Did he mention the court in which that allegation had been made?

Answer. No, sir ; I think he mentioned Louisiana in that connexion. The clerk of the court or some other person had said that the document was not genuine. The same clerk must have heard afterwards the testimony of Juan Gonzales proving the genuineness of the document.

Question. Did you know where the original paper of which you had a *testimonio* was, when you went to Saltillo?

Answer. I could not have possibly known anything of it until I saw the testimony, and upon it, I saw the notes there that it was Saltillo, &c. Then I knew that the minutes must be there. We look upon the *testimonio* as an original paper. The things you call copies, we call *testimonio*, and are evidence. We consider them as binding upon a party. We do not consider what remains in the alcalde's office as worth anything more than the *testimonio*, so far as binding the party is concerned.

Question. Did you examine the archives?

Answer. I did.

Question. In whose possession did you find them?

Answer. I do not remember his name. It is familiar to me. In a few moments hence I may remember it.

Question. Who was the alcalde before whom the paper was originally executed?

Answer. Juan Gonzales.

Question. Did you see Gonzales before you examined the archives, or afterwards?

Answer. Before ; I went to ask him if the *testimonio* was genuine.

Question. You subsequently examined the archives?

Answer. Yes, sir.

Question. Did Gonzales agree to go with you?

Answer. Where?

Question. Anywhere?

Answer. He agreed to go to his own court-house.

Question. Afterwards did he agree to go to the States?

Answer. Yes, sir.

Question. What sum did you agree to pay him?

Answer. I paid him \$500. That was the first sum. He did not know me, and I gave him \$500 to assure him, and to get him to go to Rio Grande city. I thought, probably, as I had come a stranger in Saltillo, that he might lack confidence in me, and I told him I would, and did, give him \$500 to pay those who would represent him in his tannery and other business while he was absent. I gave it to him before he left Saltillo.

Question. For where?

Answer. Rio Grande city.

Question. Was he to have any further sum?

Answer. He was not to have any further sum that time.

Question. Was he to have any further sum at any time?

Answer. What further sum was given him was by another arrangement to get him to go to New Orleans. When he was in Rio Grande city, I got him to go to New Orleans, by explaining to him the progress of civilization—telling him of steamboats, railroads, &c.

Question. I understand you to say that he agreed to go with you, first, to Rio Grande city?

Answer. Yes, sir; and no further.

Question. What compensation was he to receive for that service?

Answer. \$500.

Question. That you paid him in advance?

Answer. I gave him a bill, drawn against a friend of mine in Monterey.

Question. What was the distance to Rio Grande city?

Answer. I cannot say. I think we were six or seven days on the way.

Question. Who paid the expenses?

Answer. Mr. League paid the expenses.

Question. Was Mr. League with you?

Answer. He was from Monterey to Rio Grande city.

Question. Were any expenses paid by Gonzales?

Answer. I agreed with him, before he left his own house, that he should have no expenses to pay.

Question. The agreement was, that you should pay his expenses, and \$500?

Answer. I offered him the \$500. If you and I travel along, one of us pays the expenses.

Question. The expenses were paid by you or Mr. League?

Answer. Yes, sir.

Question. When was anything further said on the subject of compensation?

Answer. Gonzales's first testimony was taken in New Orleans; and after that was taken, Mr. League thought that if Gonzales could himself give his evidence before the court at New Orleans it would have a greater impression. Mr. Gonzales was an old man, of fine appearance, and of great respectability, and Mr. League was willing to pay more to get his testimony given in before the court at New Orleans. Mr. Gonzales's testimony had been taken in Rio Grande city *de bene esse*.

Question. What was said on the subject of compensation?

Answer. I offered him \$800 to go with me to New Orleans in order to give there his testimony of the genuineness of the document referred to. We had a great deal of talk on the subject. The steamer hove in sight. I told him that he would see many things he had never seen before. I used every means to persuade him to go with me. Finally he consented.

Question. You say that you offered him \$800—did he accept it?

Answer. Yes, sir.

Question. Was that the full sum paid him?

Answer. Yes, sir ; from Rio Grande city to Louisiana.

Question, (by Mr. Tappan.) One thousand three hundred dollars in all ?

Answer. Yes, sir.

Question, (by Mr. Clark.) Was that the full sum that Gonzales received for the service rendered by him ?

Answer. Yes, sir.

Question. You found Mr. League at Monterey at your return ?

Answer. Yes, sir.

Question. Were you acquainted with any person at Saltillo ?

Answer. I was acquainted with several persons.

Question. With whom ?

Answer. One or two merchants, that I knew some years. I cannot exactly call their names at present.

Question. Did you know Dr. Hewitson ?

Answer. Yes, sir.

Question. When did you become acquainted with him ?

Answer. Many years ago ; ten or twelve years. I do not remember exactly.

Question. Did you see him about that time ?

Answer. Yes, sir ; every time I passed through Saltillo I made it my business to go and see him.

Question. Where did he reside ?

Answer. In Saltillo.

Question. Who did you see first, Gonzales or Hewitson ?

Answer. Gonzales.

Question. You saw him before you saw Hewitson ?

Answer. Yes, sir.

Question, (by Mr. Tappan.) What occurred at your first interview with Gonzales ?

Answer. I asked him if he was Juan Gonzales. He said that he was. I handed the *testimonio* to him, and requested that he would look at it, and say whether that was his signature which was attached to it. He replied that he was short-sighted, and that as it was dark, I had better call in the morning. I told him I would like to have the satisfaction before going to have him look at the document, and say whether the signature was his. He took it close to the light. His three or four daughters and his wife surrounded him. They said it was their father's signature. He looked at it particularly, and he said that it was his. Next morning I called again to see him, and he corroborated what he had said the night before. He said that he would be happy to go with me to the court-house, which was only a few steps off, and prove it. He thought that it was a Mexican question that was involved. That was the first interview we had.

Question, (by Mr. Clark.) Did you know Mr. Hewitson's connexion with the case ?

Answer. I heard some talk that Mr. Hewitson had been employed by somebody in some part of the States, and that he had gone and attended an examination in the matter. I think it was said that Mr. Mussina had sent some party there. I will not be positive. It is

like a dream. I think Mr. Mussina's name was mixed up with the case.

Question. What had Mussina to do with it?

Answer. I afterwards learned in Saltillo that he was attorney, in fact, of this man in San Luis Potosi, José Maria Aguirre. I went to see who were the parties that were represented, when I was denied the privilege of seeing any document in the court-house.

Question. Did you know that Dr. Hewitson had been a witness?

Answer. No, sir; not until afterwards. I believed, when I examined the document, I discovered his signature. Then I learned that he was a witness. I believe that it was attached to this power of attorney. It is the testimony of Dr. Hewitson, I think; but I will not be positive.

Question. When did you learn that?

Answer. When I was in Saltillo I learned it by looking at the *testimonio*. There is attached to that document the testimony of Dr. Hewitson.

Question. Had you ever previously seen Dr. Hewitson, and conversed with him in relation to this subject?

Answer. Never.

Question. Did you ever visit Galveston?

Answer. I have been in the habit of visiting it since 1849.

Question. Did you know Judge Watrous?

Answer. Yes, sir.

Question. How recently had you been at Galveston before you saw Mr. League on the occasion to which you refer?

Answer. I think, some time; Mr. League's visit was in 1857. I do not think I had been in Galveston for some time. Mr. Hale holds my power of attorney to attend to our business in Galveston. I think I had not been in Galveston for two or three years. I am not sure. I have a bad memory for dates.

Question. Were you well acquainted with Judge Watrous?

Answer. No; more than that I saw him preside in court.

Question. You had no personal acquaintance with him?

Answer. None.

Question. When you went to Saltillo, did you know who were interested in the lands in respect to which that power applied?

Answer. No, sir; I knew nothing about the parties. I heard the names of Lapsley, Warren, and others mentioned, but I did not hear anything more about it. I, of course, knew that Mr. League was interested in it. He presented the power. All I had to see was as to the genuineness of the document; whether the signatures were genuine, and whether the parties were alive who had executed it.

Question. Did Mr. League give you any information as to who was interested with him?

Answer. I think he mentioned the name of Lapsley. I do think his expression was Lapsley and others. I think he mentioned a man's name, Montgomery; but I cannot be positive about it.

Question. Did you take any letter of introduction to Mr. Gonzales when you went to call on him?

Answer. No, sir.

Question. How did you find him ?

Answer. By inquiring the street where he lived.

Question. You were a stranger to him at that time ?

Answer. A perfect stranger.

Question. Did I understand that it was in the evening you called on him ?

Answer. It was in the dusk. Candles were lit. When I was at my boarding house or hotel, I inquired whether a man by the name of Gonzales lived in Saltillo. I was told that there were several of them ; that there was one round opposite the church. I ought to have waited ; but I was anxious to ascertain the fact whether the man was alive who had executed the document. I went as I have told you, and what occurred I have already stated.

Question. Had you the *testimonio* with you on that occasion ?

Answer. Yes, sir ; Mr. League told me that it was a document that I must take the greatest care of. Therefore I carried it always with me.

Question. What did you say to Gonzales ?

Answer. I asked him whether he was alcalde in 1832. He said that he was acting as such. I asked him to be kind enough to look at the document. I handed him the power of attorney. That, with what I have already stated, was all of the conversation. At the time Mr. Gonzales believed that it was in his own court the genuineness of his own signature to the document was to be proved. I had subsequent conversations to induce him to go with me to Rio Grande city. He was reluctant to leave his family and business, as one of us would.

Question. How old was he ?

Answer. About sixty. He was not so old as he looked. He went to considerable expense to get cataracts taken from both of his eyes. He was so short-sighted in Saltillo that it was with the greatest difficulty he could see ; but when he got to Louisiana, by a change of spectacles he could read over the document easily.

Question. When you went to see Gonzales, did you inform him that the document had been impeached ?

Answer. Yes, sir. I told him that it was alleged that it was a forgery—a got-up document. He said that he would go anywhere and certify to its genuineness.

Question. Did you tell him before he recognized it or afterwards ?

Answer. Afterwards. I did not want to introduce any subject until he had examined the document.

Question. He examined it by candle-light ?

Answer. Yes, sir ; it was by that time I got there. When I went there he was in his tan-yard, and it grew dark while I was waiting for him.

Question. Did I understand you to say that he recognized it instantly ?

Answer. No, sir. He examined it closely before he said that it was his.

Question, (by Mr. Craige.) What is the reputation of Gonzales at Saltillo?

Answer. He has a good reputation. He is respectable, and in rather wealthy circumstances. His sons go to Spring Hill College, near Mobile, Alabama. A man in Mexico cannot do that, unless he is in respectable circumstances.

Question, (by Mr. Clark.) Could Gonzales speak English?

Answer. He could not. His children could.

Question, (by Mr. Craige.) To whom did you apply to look at the power of attorney that Tomas de la Vega gave Mussina?

Answer. A notary public at Saltillo. I put down three or four dollars for the paper. When I returned to get it, I found a muss kicked up, and the result was that they would not let me have a copy.

Question. You say that Aguirre was in San Luis Potosi?

Answer. Yes, sir; José Maria Aguirre was governor of San Luis Potosi.

Question, (by Mr. Ready.) Do you say that you examined the archives at Saltillo?

Answer. I examined a portion of them—the portion I went to look after. I considered them to be in a rough state—badly sown together, and badly got up together.

Question. Did you find anything there corresponding with the *testimonio*?

Answer. I did.

Question. Did you compare them?

Answer. I compared them, not very particularly, but I saw they were very nearly equal.

Question, (by Mr. Clark.) Did you return to Saltillo with Gonzales?

Answer. No, sir. I had agreed to carry him back; but he himself offered to go with some friends he had met.

Question. How far did you accompany him on his return home?

Answer. No further than Matamoras. He met some acquaintances and said he felt at home with them. I had agreed to put him back in his own house, but he seemed to say that he felt well enough with his friends. The river was low at that time. Finding that he could not get up on the steamer, and these cars offering, and these persons being his friends and acquaintances, I was very happy that he went with them.

I said that Juan Gonzales was *alcalde*. I mean that he was acting *alcalde in turno*, he being one of the *regidores*.

In answer to the question, why I desired to go alone to Saltillo, I will say in addition, that I was under fear of parties who were concerned in the matter opposed to Mr. League. I afterwards learned that one of the three persons who had authorized the power, José Maria Aguirre, was a man of considerable influence.

In endeavoring to get Juan Gonzales to consent to go to Rio Grande city, at first he would not consent; but after two or three days, through Dr. Hewitson's influence, he consented to accompany me.

Question, (by Mr. Billingham.) Did Hewitson and Gonzales appear to be acquainted?

Answer. Yes, sir.

Question. Acquaintances of long standing?

Answer. Yes, sir. Dr. Hewitson had lived in Saltillo so long that he seemed to know everybody there, Gonzales included. I now recollect that Mr. Parker was in company with Mr. League in his visit to Mexico, and travelled to Monterey and returned with us from there. I now recollect the name of the keeper of the archives at Saltillo, which I could not remember before. His name is Cosme Castañado.

JOHN TREANOR.

THURSDAY, MAY 13, 1858.

Further examination of J. A. H. Cleveland.

Question, (by Mr. Clark.) Were you in attendance at Judge Watrous's court during the final hearing of the case of Cavazos vs. Stillman and others?

Answer. I was.

Question. Do you remember who the counsel were who appeared in that case at the final hearing?

Answer. Mr. Ballanger appeared, I think, for Stillman & Belden, Mr. Hale represented the heirs of Cavazos; Mr. Potter I know that I saw. He was engaged during the time in arguing the preliminary questions. Mr. Volney E. Howard was also engaged, I think, for Mussina. Mr. Hartley, I think, argued the case for him on the final hearing. Mr. Potter and Mr. Merriman were both in the case for Mussina, but quit it during the progress of the trial. Mr. Hartley, I think, argued the case for him on the final hearing.

Question, (by the chairman.) When was that?

Answer. At the spring term, 1851; so I think from a remark made by Judge Watrous on the bench.

Question, (by Mr. Clark.) What was the remark?

Answer. That he would take the case under advisement, and that he would deliver a decree at the next term of the court.

Question. Did you hear any suggestion that a decree should be entered then?

Answer. All the parties seemed to be anxious that the decree should be entered then. Colonel Love wanted his costs, and I wanted the marshal's costs. Mr. Ballanger wanted it settled. Mr. Hoard wanted it settled. There was a remark from Judge Watrous something like this: that if they could agree upon a decree, it would save him an immense deal of labor and investigation. I think that was his remark. Mr. Hartley, who represented Mr. Mussina, said that Mr. Mussina was not willing that the decree should be entered. Then Judge Watrous said, "I will take this case under advisement, and render the decree at the next term;" and at the next term he did deliver it.

Question. Then you are sure that Mussina's counsel was there when the judge asked if all parties had agreed to the decree?

Answer. I know it; Mr. Simon Mussina was there all the time taking notes.

Question. The case was argued in behalf of Mussina?

Answer. It was.

Question, (by Mr. Craig.) Was Mr. Mussina taking notes there as he is now here?

Answer. Yes, sir. I heard him remark to John S. Jones that he intended to talk a little about it in the papers, or something to that effect.

Question, (by Mr. Chapman.) Was that at the time of the conversation you speak of in regard to the entry of the decree?

Answer. He was there when his counsel objected.

Question. Did you hear the judge ask whether Mr. Mussina was present?

Answer. I did.

Question. Was there any reply?

Answer. Mr. Hartley replied that Mr. Mussina was not willing to agree to the decree.

Question. I mean in reply to the question, "Is Mr. Mussina present?"

Answer. I recollect that Mr. Mussina was there, sitting by the post taking notes. I presume that Mr. Hartley stated that Mr. Mussina was there.

Question, (by Mr. Clark.) Was the case strongly litigated at the hearing, or was it a sort of consent business?

Answer. It was strongly argued. Mr. V. E. Howard stopped there, on his way from Washington, to argue it.

Question. Was it strongly litigated?

Answer. I thought so.

Question. If it was strongly argued, how could any parties suppose that there would be consent to a decree right on the eve of argument?

Answer. I do not know how they supposed that. I recollect that pretty much all the lawyers were after Mr. Hale, and that he was fighting them off.

Question. Were not the interest of Bass and Hoard identical with that of the party Mr. Hale represented?

Answer. I did not understand it so; though it was not my business to pry into such things. I was marshal of the court, and never took sides.

Question, (by Mr. Chapman.) You say that Mr. Hartley was present at the time the entering of the decree was spoken of?

Answer. Mr. Hartley, I think, was the man who objected, and said that Mr. Mussina did not consent to the entering of the decree. I am very certain that he is the counsel who argued the case at the final hearing.

Question, (by Mr. Clark.) Was anything said of the parties having agreed to a decree?

Answer. I recollect that they were all disappointed and mad that

Judge Watrous had not rendered a decree. Mr. Hoard spoke a good deal to me about it.

Question. Hoard did not want a decree ; he was for the defendants?

Answer. He did. He said that he would sooner have had the case decided, even if the decree went against him. He wanted to take the case to Washington.

Question. Which side was he on?

Answer. He was for himself.

Question. Plaintiff or defendant?

Answer. I presume that he was one of the defendants.

Question. He told you that he would rather have the case decided, even if decided for the complainant?

Answer. He was frequently at my house. He talked a good deal against Judge Watrous about not having decided the case. He said that Mussina had no interest in the matter, and that Judge Watrous ought to have discovered that thing a long time before. He had sooner, he said, the judge had made a decree and decided against him, for he wanted the case taken here and decided at once.

Question. What way did he think the judge ought to have decided it, for the plaintiff or defendant?

Answer. He did not seem to care, so that he got a decree.

Question, (by the chairman.) Did Mr. Hale state to the court there that they had agreed on a decree?

Answer. I do not recollect. I do not think he did, but I am not certain about that.

Question. Did Mr. Hale say anything connected with it at all?

Answer. I do not recollect. He talked as a matter of course ; but it is a long time ago, and I do not recollect.

Question. You recollect that Mr. Howard was present at that term of the court?

Answer. Yes ; he had come there to argue the case. He made an argument on the admissibility of some evidence.

Question. But Mr. Hartley argued the case for Mr. Mussina?

Answer. Yes, sir, at the final hearing. I am certain that Mr. Potter and Merriman had quit the case, for they told me so.

J. A. H. CLEVELAND.

EXAMINATION OF JAMES LOVE.

SATURDAY, MAY 1, 1858.

James Love examined by Mr. Clark.

Question. Where do you reside ?

Answer. In Galveston, Texas.

Question. You are clerk of the district court, presided over by Judge Watrous?

Answer. I am.

Question. How long have you been such clerk?

Answer. Since 1848 or 1849, I believe.

Question. Had you resided there?

Answer. I have resided in Texas since 1837. That was my home about the time Judge Watrous came there.

Question. You then resided in Galveston?

Answer. Yes; I have always lived there.

Question. Your connexion with the court commenced in 1849?

Answer. That is my impression now.

Question. Have you the rough minutes of the court for the April term of 1851?

Answer. I have.

Question. Will you produce them?

Answer. I will—they are at present in my room.

Question. You have the minutes beginning when, and ending when?

Answer. According to the subpoena I received, I have brought all I was required to bring, and I brought besides, my own private memorandum book.

Question. Do you recollect the class of suits called the Lapsley suits?

Answer. Very well, sir.

Question. When were they commenced?

Answer. My recollection is, that they were commenced in January, 1851.

Question. Who were the plaintiff's attorneys in these suits?

Answer. Mr. Hale was one, and I think Mr. Potter was another.

Question. Did you know who were the real parties in interest as plaintiffs?

Answer. Yes; I knew before the cases were brought. I knew from hearsay only; not of my own knowledge.

Question. You had your information from hearsay?

Answer. From Judge Watrous himself.

Question. Judge Watrous himself had told you who the parties in interest in these suits were?

Answer. He told me before the suits were brought.

Question. How long before the suits were brought?

Answer. I think a very short time before the suits were issued; or it may have been at the time that I was issuing the writs. I was interested in these suits; they were very profitable.

Question. And either at the time of your issuing the writs or shortly before you had a conversation with Judge Watrous about them?

Answer. It was a voluntary communication on his part. Judge Watrous and myself have been friends for twenty years. He had been a stranger to me, and never been introduced. He used to come into my office. We had discussed all these questions years and years before. He came into my office at the time the writs were being issued, I think; and he said, in substance, "this is one of my cases; I am interested in this case. You will lose your fees, because they will have to go elsewhere to be tried."

Question. He told you that this was one of his cases ?

Answer. I think so.

Question. What case was that ; which one of the Lapsley cases was this particular one to which he referred ?

Answer. I do not know. Some of the lawyers there in these suits on eleven-league claims include all the defendants in one writ ; others, again, have separate petitions for each defendant. In this instance there were separate suits against each.

Question. Exactly ; and you supposed that they would be profitable ?

Answer. Yes, sir.

Question. But you do not recollect to what particular case the judge's remarks referred ?

Answer. No, sir.

Question. The judge said this was one of my cases ?

Answer. Yes, sir.

Question. And you do not recollect what case that was ?

Answer. I do not.

Question. But it was one of those so-called Lapsley cases ?

Answer. Yes, sir. The first on the docket was against Marlin.

Question. Did the judge say that before you had said anything to him about the cases ?

Answer. I did not know, and I did not dream that he was interested up to that time.

Question. You had no idea of his interest ?

Answer. None in the world.

Question. And he told you at that time you would lose your fees ?

Answer. He said that that case would go to Louisiana, and I would lose my fees.

Question. Did he tell you you would lose your fees for services rendered before the cases went to Louisiana ?

Answer. Of course not.

Question. He merely meant, then, that after the cases were transferred you would lose your fees ?

Answer. Yes, sir.

Question. You state that Judge Watrous said to you, "this is one of my cases, and you will lose your fees." I want to know what fees the judge referred to in that remark ?

Answer. The main fees in a cause are making up the record after the trial. The clerk gets so much per page for making up the record. The beginning of a case is so much for issuing the writ ; and the fees after that until the trial are very trifling.

Question. Did not the judge's remark relate to all the fees in the case ?

Answer. I cannot say that, because I suppose it hardly related to fees for services which I had never performed ; but related only to services which I did perform.

Question. What was his language ?

Answer. He said, this is one of the cases that will go to Louisiana, and you will never get your fees.

Question. Did you assent to that ?

Answer. I could neither assent to it nor dissent from it, for I knew that he was interested, and could not try the case.

Question. What is your practice in that court ; do you exact fees from attorneys at the time the process is issued ?

Answer. It never has been so in a single case.

Question. Do you charge them ?

Answer. Always.

Question. Do you charge them to the attorney of record, or to the parties ?

Answer. To the parties plaintiffs.

Question. In the case of non-resident plaintiffs, to whom do you charge the fees ?

Answer. I charge them to the party plaintiff, because I have a bond for security for the cost of the suit.

Question. That is a bond to the defendant, is it not ?

Answer. He gives a bond to the officers of the court, and to the defendant ; that is the law of Texas.

Question. Then there is a bond given to pay the clerk's fees, as well as the defendant's costs ?

Answer. Yes, sir.

Question. Do you mean that you charge your obligors in the bond ?

Answer. I charge to the plaintiff ; I do not say anything of the obligors in the bond, because I have a book in which every man's name who enters a suit is put down " Cr." and " Dr." When I issue a writ, I charge him with it ; when I issue a subpoena, I charge him with it.

Question. Then in these Lapsley cases you charge the fees to Mr. Lapsley, the plaintiff ?

Answer. Yes.

Question. Who paid them ?

Answer. They are not paid.

Question. Why were they not paid ?

Answer. Because it was only very recently that one of these five or six cases was decided in New Orleans ; when they come back to Galveston, I get my costs.

Question. Then it is your practice to make the charge, and await the issue of the suit, before you get your fees ?

Answer. Yes, sir ; that is the practice in this State.

Question. Have you ever applied for these fees to anybody ?

Answer. Never.

Question. Would not these fees have been paid but for the remark that the judge made, or for your understanding with the judge, that you must lose your fees in that case ?

Answer. No, sir. Since I have been clerk, there has been no suit in which the costs have been paid until after the decision.

Question. No matter how long it has been in litigation ?

Answer. No matter how long.

Question. When the judge told you that that was one of his cases—

Answer. I didn't say that he said that precisely.

Question. Well ; what did he say ? Give me his language as near as you can.

Answer. In substance it was this : " This is a case that will not be tried in this court ; it must go to Louisiana, and of course you lose your fees." He did not say it was one of my cases.

Question. Did you understand him as referring to the fees to which he would become entitled for the services he might render before the cases went away ?

Answer. Not at all.

Question. Then you regard your fees as due ?

Answer. My fees are still due, and I will undoubtedly get them. The parties plaintiffs are responsible persons.

Question. When the judge told you that this was one of his cases, did he tell you how he had acquired an interest ?

Answer. He did not.

Question. Did he tell you who was associated in it ?

Answer. He did not. I knew one of the persons associated with him ; but he did not tell me.

Question. Who was the person you knew ?

Answer. Mr. League.

Question. But you made no inquiries as to the amount of interest of the different parties ?

Answer. I do not know it yet.

Question. But you understood it to be a class of suits, in which Judge Watrous had a pecuniary living interest ?

Answer. I knew it from his declaration only.

Question. Did you ask the judge how it happened that the suits were brought in his court ?

Answer. I did not.

Question. Did you not think that strange ?

Answer. I did not think particularly about it ?

Question. Did you say anything to the judge in regard to the subject of these suits being brought in his court ?

Answer. I never spoke to the judge, nor had a word of conversation with him on the subject of the suits until they were called at the April term of 1851, and I never had any conversation with him since, until this investigation came up at this session of Congress.

Question. Did the judge, at that time, or any other, mention to you the efforts he had made to have these suits brought in the federal court of Texas ?

Answer. He never said a word about it ; he made no remark about it. I know not why, or wherefore, or how he became interested, and he never spoke to me on the subject, other than as I have told you.

Question. When were these suits on the docket of the court ?

Answer. In the April term of 1851.

Question. Were they at issue ?

Answer. They were not at issue ; the last of the writs was not served until the 7th of May.

Question. Was any other suit at issue ?

Answer. Not any of them.

Question. The docket of which you speak, was it an appearance docket?

Answer. We have a docket for the judge, generally—a bar docket. My minutes are made up from the memoranda that the judge makes on his docket. This docket states when the suits were brought, when the process was executed, and the various steps taken in the suits; that is the judge's docket, and that docket I have here.

Question. When was the first mention of the case made in open court?

Answer. At the April term. They were new suits. There is a particular day assigned there to call the new issues; the judge usually takes up the old docket the second day of the term; goes on, and calls case after case, when they are either tried, postponed, or otherwise disposed of.

Question. What was done in this particular case?

Answer. I do not recollect.

Question. Do you recollect the occasion when you first heard the subject mentioned in court?

Answer. I do.

Question. Who first mentioned it?

Answer. When these cases were called in court, Judge Watrous said, distinctly, (I have the minutes and memoranda of the court, and I know I was there,) "I am interested in these suits;" somebody remarked, "We want an order in these cases;" says he, "I will give you no order in these cases, for I would not touch them with a forty-foot pole."

Question. Are you certain that that remark about touching the cases with a forty-foot pole was made at the April term, on the occasion when he first mentioned the cases?

Answer. That is my recollection.

Question. You recollect that he did make that remark at that term?

Answer. I think he made it at the April term, and, as you will see, there was no order made in the case at the April term. At the May term the first order was made. It may be that that remark was made at the May term.

Question. Are you certain it was made either at the May or the April term?

Answer. I know it.

Question. Who was representing the defendants, as counsel, at the time of the motion to which you refer?

Answer. There were various lawyers there. Mr. Howard represented one of the defendants—one of the defendants Spencer—and Mr. Taylor represented other of the defendants; there may have been other lawyers there, but I do not recollect. I know that Mr. Taylor represented some of the defendants, and that Howard and Swett represented Spencer.

Question. They asked for an order?

Answer. I do not recollect now.

Question. The motion must have been made by somebody connected with the cases?

Answer. I presume so.

Question. Do you know what order they asked for?

Answer. I do not.

Question. But the judge repudiated making any order?

Answer. He said he would make no order.

Question. After the judge stated he was interested in the cases, did any body apply for an order?

Answer. A lawyer rose—I do not recollect who—and said in substance this : “ We can go on and prepare these cases, and get the necessary orders for their trial before they are removed.” The judge said, “ I will make no order in the cases, for I will not touch them with a forty-foot pole.”

Question. Then that was said in response to an application to make some order in the cases?

Answer. Or that they should be delayed until they were prepared for trial, and that the judge should make all necessary arrangement to prepare them for trial.

Question. Did the judge state in court the nature of his interest?

Answer. He said simply that he was interested in the cases.

Question. He did not say whether it was a pecuniary interest or an interest of any other description?

Answer. No; but I understood it to be a pecuniary interest, because in another case, where he was connected by blood with the parties in interest, he gave that as a reason.

Question. What case was that?

Answer. The case of Lydia A. Watrous, his mother, against Hancock.

Question. But in these Lapsley cases he did not state the nature of his interest?

Answer. Not in my hearing.

Question. And from he did say you understood his interest to be a pecuniary one?

Answer. That was my understanding, because he did not give any other reason for it.

Question. And you not did understand that there was any other disqualification?

Answer. That is all, sir; because he was personally interested.

Question. Was any application or suggestion made in open court as to calling in a lawyer to preside?

Answer. I heard in court from the lawyers, or from the judge, or as a matter of conversation in court, that Mr. Merriman or John B. Jones would be selected by consent of the parties to preside on the trial of these cases, and that the judgment was to be entered as the judgment of the court at Austin. They were removed to Austin because the parties resided near there, and because it was more convenient for them to get their witnesses.

Question. Do you mean the party's defendants?

Answer. Yes, sir.

Question. Was that mentioned in open court?

Answer. In open court.

Question. Aloud, so that the judge could hear it?

Answer. So that every body in court could hear it.

Question. And that you think was in April or May?

Answer. I know it was in April or May, but I cannot say which.

Question. Was that after or before the Judge said he would not touch the cases with a forty-foot pole?

Answer. It was after.

Question. Were any orders of any kind made in those suits in April or May?

Answer. I think there was an order made at the May term—an order of continuance merely.

Question. You entered the order?

Answer. I believe so.

Question. Have you a deputy?

Answer. I have a deputy.

Question. By whose direction did you enter the order?

Answer. These general continuances are simply entered.

Question. According to an ordinary formula?

Answer. Yes, sir.

Question. Did the judge direct the entry?

Answer. I do not know whether he did or not.

Question. And this entry in these cases is a general continuance?

Answer. I do not say positively it is, but I believe it is. The books will show.

Question. Did anybody object to the entry of the order?

Answer. Nobody, in my hearing.

Question. Did anybody consent to it?

Answer. Not in my hearing. Nothing was said about it.

Question. Is it the usage to enter continuances without any particular application from anybody?

Answer. Yes; the judge calls the cases, and they are continued without any particular consent.

Question. Did the judge know of these orders?

Answer. I presume so.

Question. You do not know he did?

Answer. I do not know other than that I saw them on the books. I read the orders to him every morning, and I presume he knew the orders were on the books.

Question, (by the chairman.) Every morning when you go into court, you read the orders of the preceding day?

Answer. Yes, sir.

Question. Does the judge have any means to check the orders? does he look at his docket, and note his entries while you are reading your orders?

Answer. No, sir; that is not his practice. The lawyers are there always, and the judge pays little or no attention to the orders while they are being read. The lawyers of the several parties are always in court, and if the order is wrong they object to it, and it is corrected

on their application to the court. Judge Watrous, to my recollection, never in any instance sought to correct an order which I had made, except on application of one of the attorneys on one side or the other. He does not seem to pay any attention to them, as a general rule?

Question, (by Mr. Clark.) Then the orders entered in the April or May term were read over to the judge according to the usual course of business, in open court, so that the parties could take exceptions if they chose?

Answer. Yes, sir.

Question. You are sure of that?

Answer. Perfectly sure of that, except that sometimes for three or four days I may not read the orders?

Question. But you do read them at a later period?

Answer. Yes ; because sometimes I am very busy, and am not able to get up the orders for the morning.

Question. Was this remark of the judge, that he would not touch the cases with a forty-foot pole, made before or after you read to him these orders of continuances?

Answer. I am pretty certain that it was made before ; because, as I have told you, he made the remark when the cases were first called, and announced his interest.

Question. What circumstance occurred at the time, that you recollect, which induced that strong remark?

Answer. None that I know of.

Question. Was he urged to make any order?

Answer. None at all, except what I have told you.

Question. Was it pressed by anybody after the judge's declaration of his being interested?

Answer. Not a solitary word was said, within my recollection, after that.

Question. Then, if I understand you aright, the judge said he would not touch them with a forty-foot pole before he stated that he was interested?

Answer. No, sir.

Question. I ask you what circumstance called out that strong remark?

Answer. According to my recollection, when these cases were first called in court Judge Watrous announced his interest in them. Some one, I think the attorney for the plaintiffs, said, "let these cases stay here, and we can get all the orders that are necessary to perfect them for trial, and then we will remove them."

Question. And then the answer came from the judge that he would not touch them with a forty-foot pole ; and that was incited by Mr. Hale's suggestion that the cases should be retained till they were ready for trial?

Answer. Exactly.

Question. Did the attorneys for the defendants make any response in open court to that suggestion of Hale's, that the cases could be retained till they were ready for trial?

Answer. There was nothing further said about it, to my recollec-

tion. If the defendant's counsel said anything I do not recollect ; there was no objection that I heard of.

Question. And no defendant made any objection?

Answer. Not to my knowledge. Whether the counsel for the defendant or the plaintiff made this motion I cannot say ; I believe it was Mr. Hale.

Question. Was the court pretty full when he made that remark?

Answer. The court is not generally full. We have jurors there, and about twelve lawyers in pretty constant attendance on the court. Usually there are not many spectators, and in the morning they are not so apt to be there as later in the day.

Question. Can you state any other fact ; you say no order was made in the cases in April or May, except that general continuance ?

Answer. I say I believe so ; the books may show differently, but that is my impression now.

Question. When was the next term of the court?

Answer. The next term was January, 1852.

Question. Were these cases on the docket?

Answer. They were.

Question. By whom were they mentioned at that time?

Answer. I was not present from the beginning to the end of the term in January, 1852, and I know nothing about the proceeding of the court at that time. I have looked at the books, and I find that every order during that term was made up in the handwriting of my deputy, John S. Jones ; I know nothing about what occurred in January, 1852.

Question. At what date did the judge's judicial services commence ?

Answer. I believe in the fall of 1846, or some time in 1846.

Question. Were you present at the trial of the Cavazos case?

Answer. All the time ; I suppose so.

Question. You kept the minutes of the trial?

Answer. Yes ; and made the endorsement on the papers.

Question. Mr. Hoard was called as a witness?

Answer. Yes, sir.

Question. You kept the minutes?

Answer. I did.

Question. All exceptions to rulings as to the admissibility of witnesses were entered on the record?

Answer. They were either entered on the papers or on the record?

Question. On the judge's minutes?

Answer. No, they were not entered on the judge's minutes. Some papers offered by the plaintiffs on the prosecution of the case were rejected by the judge, and he directed me to make a minute on those papers.

Question. I ask you as to the rulings ; they are on record ?

Answer. I do not know, sir.

Question. This trial of the Cavazos case was on *viva voce* testimony, was it not?

Answer. In part, but mostly by deposition.

Question. Mr. Hoard was called to the stand as a witness?

Answer. Yes, sir.

Question, (by Mr. Taylor.) Was there a bond given by the plaintiffs in these Lapsley cases, as in other cases, for the costs?

Answer. I cannot say I have that rule in my court.

Question. You state your practice to be to receive a bond for costs; I merely wish to know whether there was a bond given in these cases?

Answer. I cannot say.

Question. You have no recollection that there was such a bond?

Answer. No, sir, I have not.

Question. You mentioned, in the course of your examination, that when these suits were called Judge Watrous stated he was interested; and, in reply to some other question, you stated that you knew one other party to be interested with him, Mr. League. How did you know, at that time, that Mr. League was interested?

Answer. I cannot say precisely; it was a matter of general information that he was connected with one of these eleven-league claims. I do not recollect when or how I got the information.

Question. Did you have the information from Mr. League, or did you obtain it from Judge Watrous?

Answer. I do not recollect.

Question. Can you recollect how long you had that information before this conversation occurred between you and Judge Watrous?

Answer. It was all about the same time, within a day or two, or perhaps the same day. Whether it came from Judge Watrous, or where it came from, I cannot say; that was my general impression. As to the Alabama gentlemen concerned in the suits, I know nothing at all about them.

Question, (by Mr. Clark.) Has the system of selecting jurors in that court been uniform during the whole period of your official connexion with the court?

Answer. It has been uniform, with this exception, that lately the judge has left the summoning of the jurors exclusively to the discretion of the marshal. For two or three terms he directed the marshal to summon all the jurors from the country.

Question. What do you mean by summoning juries from the country?

Answer. At Galveston, we are on an island, and there was an impression in the country that litigants would not have fair play with trials before a city jury. In those cases that were coming up before the court, supposed to be important, Judge Watrous directed the marshal to summon jurors exclusively from the country, and they were so summoned for two terms.

Question. When was that?

Answer. That was, I think, in 1848 or 1849.

Question. You said it was until recently?

Answer. The last few terms there, the *venire facias* has been issued by the clerk as a matter of course, and the marshal had no directions. These directions to which I refer, came on the record; but for several years back, there has been no such order, and the marshal has been left to his discretion.

Question. Have you ever given particular instructions as to summoning jurors?

Answer. Never in my life, either as to jurors collectively or individually.

Question. Has the judge given any direction except such as he gave in open court, on the minutes?

Answer. Never to my knowledge.

Question. Do you recollect any instance in which any exception taken in court to any of the jurors summoned by the marshal?

Answer. There are generally exceptions to one or two jurors by lawyers, who may not like them; but none in regard to the manner in which they were summoned, or the influences under which they acted.

Question, (by Mr. Ready.) The exceptions to which you refer, do they relate to their competency or to their being proper jurors? do they relate to specific cases, or are the exceptions taken to the general mode of empannelling the jury?

Answer. I have never known an exception to be taken to a juror, except it related to a personal feeling of a lawyer against the juror, on account of some of their own private transactions.

Question. Is not the exception taken when the pannel of jurors is returned to the court, or is it taken when you are about to swear the juror to try a particular cause?

Answer. That is the time.

Question, (by Mr. Clark.) You endeavor to apply the law of the State, as far as you can, in the summoning of jurors?

Answer. Always. That is the judge's general direction and the practice.

Question. Has the judge interfered at all in regard to the mode or manner of selecting jurors?

Answer. I have never known him in a single instance, directly or indirectly, to interfere with anybody as a juror, in any way whatever, and no one will ever say that he did.

Question. You were appointed by Judge Watrous?

Answer. I was.

Question. And your relations with him have been intimate and friendly?

Answer. Always. I am as much his friend as I am of any man in the world.

Question. When did these Lapsley cases actually go away?

Answer. They went from Galveston in the term of January, 1852.

Question. To whom did you deliver the transcript?

Answer. I see, from some papers, that they were delivered to a nephew of mine, a lawyer. It was 250 miles to Austin, and nobody had paid me for transferring them. I was applied to for the papers by some of the lawyers for the defendants, and I refused to give them unless they got the assent of the plaintiffs to take them; but as my nephew, Mr. William P. Ballinger, was going to Austin, the papers were delivered to him, because I knew he would take them safe. I

have no distinct recollection myself, but my recollection is that I directed them to be given to him, and they went by him to Austin.

Question, (by Mr. Billinghamst.) When did you give that direction?

Answer. I do not recollect. It was at the time they were taken, some time, perhaps, after the January term. They were ordered to be sent to Austin, I think, at the January term of 1852, perhaps it was later in the summer when they were sent over. I know I did not give them at the first application. They had given me no money to send them, and I did not choose at my own expense to send a messenger to Austin.

Question, (by Mr. Clark.) Do you recollect one occasion when the judge called on you to produce the minutes of the April or May term?

Answer. The only instance that I recollect about the judge speaking to me of the minutes of the April or May term was when he came into my office a few days before he left home. He then looked at all the papers and minutes of the May term.

Question. What reason was assigned for that?

Answer. He wanted to see all the orders that had been made.

Question. When was that?

Answer. Shortly before he left Galveston to come to Washington.

Question. But do you recollect that in court at the April or May term somebody's attention was called to the form of the orders that had been entered in court?

Answer. I was not there at the time.

Question, (by Mr. Billinghamst.) On whose application were these papers sent to Austin?

Answer. I do not recollect. There was a general order that they should be sent to Austin, because the parties had agreed to substitute a lawyer in the place of Judge Watrous to try them. The order was general to transfer them to Austin. The only thing I wanted was to have proper security that the papers would go there safe. I would not send them by mail, because that was uncertain, and I would not give them to either of the parties without the consent of the other, but I directed them to be given to my nephew, Mr. Ballinger.

Question. Did you make up the transcript of this case yourself?

Answer. No, sir.

Question. Did you see the transcript after it was made up?

Answer. No, sir; I did not.

Question. Was that transcript made up after the January term, 1852?

Answer. Of course it was, because the order to transfer was made at the January term, 1852, and of course the transcript must have been made after that time.

Question. Have you seen the order of transfer?

Answer. I have seen it.

Question. Do you know whether that transcript was given to Mr. Ballinger?

Answer. I do not. I think the transcript was made up by Mr. Jones, the acting deputy, who did all the business. I was seldom in

the office except during the session of court. I was always there at the session of court when I was at home.

Question. Were you absent from home at the January term, 1852?

Answer. I think I was. I think I left home before the court commenced, with the consent of the judge; and I do not think I returned till late in the term.

Question. Has Mr. Jones the charge of your office?

Answer. He had then. For the past two or three years my son has been the sole acting deputy.

Question. Up to the time your son took charge of it, Mr. Jones had charge?

Answer. Mr. Jones had the control and management of the office exclusively.

Question, (by Mr. Taylor.) Do you preside as clerk at each court—at Austin and Brownsville as well as Galveston?

Answer. No, sir; only at Galveston.

Question. You did not go beyond Galveston?

Answer. No, sir.

Question. When this order of transfer was made, were the parties in court in person or by counsel?

Answer. I cannot say, because I was not there when the order of transfer was made; but that was the practice.

Question. When there is an order of transfer made, is it usual to notify the party that is not present at the time of the fact of the transfer?

Answer. I have never known any transfer to be made unless the lawyers representing each party were present.

Question. Is there any notice issued from the court in such a case?

Answer. I have never known any.

Question, (by Mr. Evans.) In regard to the mileage of jurors from Brownsville to Galveston, how far does the Galveston district extend?

Answer. By order of the court it is confined to a particular district. He divided the eastern district into two sections. One including Jasper and Jefferson, going down to Indianola. The other district is divided east and west. The coast most convenient to the Rio Grande he has given to the one district, and the parts most convenient to Galveston is given to the other district.

Question. State how far the eastern district extends on the western coast?

Answer. I believe it goes no further than Victoria. Corpus Christi, I believe, is in the bounds of the district. There are one hundred and twenty counties in the State, and there are four courts held. The judge had to divide the eastern district into two districts, for the purpose of holding courts—one at Brownsville, and one at Galveston. He divided them according to his own will, without any knowledge on my part.

Question, (by Mr. Billinghamst.) How long has that division existed?

Answer. I think the bill dividing the State was passed three years ago.

Question. I mean the division made by Judge Watrous ; how long has that existed ?

Answer. The division was made at the first court after the passage of the act ; I believe about two years ago last January.

Question. Prior to the passage of the law by Congress for a division of the State into two judicial districts, had Judge Watrous made any division ?

Answer. Yes ; the law required him to hold a court at Tyler, at Austin, at Brownsville, and at Galveston. He then divided the State into four districts, and held court once a year in each of these districts.

Question. Was the practice of the court to select jurors from the districts, respectively, of each court ?

Answer. The jurors were always summoned in the districts in which they resided, and in which the courts were held.

Question. Then the court at Galveston was furnished with jurors from Galveston district.

Answer. Always.

Question. And the court at Brownsville was furnished by jurors from the Brownsville district ?

Answer. Except in one instance.

Question. And the courts at Austin and Tyler were furnished in the same way ?

Answer. Yes.

Question. What was that instance ?

Answer. That was the celebrated Cavazos case, in which over 80 persons at Brownsville were concerned. It was discretionary with the judge about transferring this suit. It was understood between the parties that as they could not get a fair trial from the jurors there, the jurors to try that particular case were to be got out of another district ; and, hence, the marshal summoned them out of another district, and carried them to Brownsville.

Question, (by Mr. Clark.) Was that known to the counsel of the defendants ?

Answer. Yes, sir.

Question. And assented to by them ?

Answer. Yes, sir. The judge was not bound to transfer the case for trial to Brownsville, but he did so for the convenience of the parties and their witnesses. The Cavazos lawyers said, we object to the transfer of this case, because we can get no fair trial at Brownsville, and can get no jury there that will do us justice. Then how it came up I do not know ; but Judge Watrous said I will direct the marshal to summon the jurors out of the district, to give you a fair trial. It is better to remove this case there ; because your witnesses live in Mexico and around there. And so it was that the marshal took the jury down.

Question, (by Mr. Billinghamst.) How many counties are there in the Brownsville district ?

Answer. I do not know. The books will show the counties in my district, and the law and the map will show the balance.

Question, (by Mr. Evans.) How long is it since the chancery docket was called in your court? I want to know when the case of Jacob Mussina *vs.* Belden and others was dismissed?

Question objected to and excluded.

Question. Was it entered of record?

Answer. I think so. If it was after 1851 and 1852, and before 1854, it was entered.

Question. How long is it since the chancery docket in your court was called for the hearing of cases?

Answer. I do not know how long it is since the chancery docket was called; but occasionally, when the parties have been eager to try chancery causes, they have been tried. I do not know how long it is since there has been a regular call of the docket.

Question. Was this case reached on the docket for the hearing of causes for the January term of 1856?

Answer. I do not recollect. If it was called in 1856, the record will tell; but if this case was dismissed after 1854, the record is not here.

Question, (by the chairman.) That cause was in your court, was it not?

Answer. Yes, sir.

Question. And if it was dismissed after 1854, it would be necessarily entered of record?

Answer. Always; generally by decree in chancery suits.

Question, (by Mr. Ready.) No matter at what time it was dismissed, or whether it was dismissed or not, there is a record in existence showing the steps taken?

Answer. Of course there is.

Question, (by Mr. Evans.) I want to know whether you recollect the fact of the cause being dismissed?

Question excluded.

MONDAY, MAY 3, 1858.

Examination of James Love continued.

Witness produces the record books of the court at Galveston, and the clerk's rough minutes.

Question, (by Mr. Clark.) Show me the earliest entry in any of these books in these Lapsley suits.

Answer. The earliest entry is under the head of May term, 1851. The date is Wednesday, May 21, 1851. "John W. Lapsley *vs.* James Marlin—continued."

Question. Is this word "continued" in your handwriting?

Answer. All these orders are in my handwriting.

Question, (by Mr. Taylor.) When was the adjournment of the May term?

Answer. July 15, 1851. The next entry in that case is January 6, 1852.

Question. Have you the calendars with you?

Answer. That is the only calendar I have—the docket for the judge.

Question. That is the court calendar?

Answer. Yes.

Question. In whose handwriting is the word “continued” here, (in the docket?)

Answer. In Judge Watrous’ handwriting, I believe.

I produce the trial docket of the court, made up for the use of the court. At page 175, (being the docket for April term, 1851,) there are the following entries.

Opposite to the titles of the causes is the word “continued,” in the handwriting of Judge Watrous, as I think. The appearances were not entered, because the writs were not served.

In the rough minutes of the clerk, under date of January 15, 1852, appears the following entry:

“It is ordered that all cases wherein the parties reside in any other district, be removed to such district upon application of the parties or their counsel.”

Beneath the entry is the following:

“On motion of John Taylor, esq., it is ordered that James Dunn be made a party defendant in the case of Lapsley *vs.* Mitchell & Warren. The Lapsley cases transferred.”

Question. Be good enough to turn to the order of the court making James Dunn a party defendant in the case of Lapsley *vs.* Mitchell & Warren.

Witness turns to, and reads the order.

Question. Does the judge superintend the making of entries in this book, (the rough minutes?)

Answer. He has nothing to do with that, and never had. I sometimes put down a single word, to call my attention to the matter. That book is for my own convenience, to make up the orders from.

Question. Have you got here the book in which you made the charges for fees in these cases?

Answer. No, sir; I have a separate fee book. I suppose it may be proper for me here to correct a portion of my testimony. I said I had not been paid my fees. Since then I know that I gave an order to my deputy for them, and I believe he has received them. I do not know that for certain, but I think so.

Question. Did you not know that the other day?

Answer. I did not.

Question. Who has informed you of it since?

Answer. Mr. League mentioned to me that I had given an order on him to Mr. Jones, for my fees.

Question. How did Mr. League know what you had said on that subject?

Answer. I do not know.

Question. He was not here when you testified?

Answer. It is as apt as any way that I told him what I had said on the subject. It was a matter of no secrecy.

Question. Who did Mr. League tell you he paid?

Answer. He told me he paid my deputy. I did not know; because for two or three years, Mr. Jones had the exclusive control of the office. Mr. League would not have paid the fees without my order; I remember that I gave Jones an order either in writing or verbally to get the fees.

Question. Mr. League was a pretty extensive litigant in the court?

Answer. Yes; he had a good many suits there.

Question. More than any other person?

Answer. No, sir; Colonel Christy, of New Orleans, had the most; Mr. Barnley came next, and I think Mr. League came after him.

Question. What was Mr. League's business?

Answer. He had been a merchant when he came to Texas. At this time he followed no business except speculating in lands. He was a large property holder there. He lived in Baltimore for two or three years.

Question. To whom of the parties was Judge Watrous related by blood or marriage?

Answer. I never heard of it before until I saw it in the order. I do not know to which of them.

Question. And you do not know on whose suggestion that order assumed that form?

Answer. No; I was not in court and I never heard of it before to my recollection until I read it this morning. Still I must have heard of it, because I copied these orders before; but it had gone out of my mind. I have no knowledge of what his relations are in connexion with that suit at all.

Question. And then you do not know whether it was with the defendants or plaintiffs he was connected by blood or marriage?

Answer. No.

Question, (by Mr. Taylor.) Do you know of any relationship of his to any of the parties either plaintiffs or defendants?

Answer. No; I know of no relations that Judge Watrous has in Texas, except his own immediate family.

Question, (by Mr. Clark.) I see in this other book of rough minutes, under date of August 23, 1853, the following entry:

"All the cases of Judge Hughes transferred to Austin, make"
"Lapsley cases;" in whose hand-writing are these entries?

Answer. These entries are in Mr. Jones' handwriting.

WEDNESDAY, MAY 5, 1858.

Further examination of James Love.

Question, (by Mr. Billingham.) Turn to your book and on page 159 find the order made in the case of J. W. Lapsley vs. Mitchell and Warren.

Answer. I have it.

Question. That is marked "erroneous" in two places, whose handwriting is it?

Answer. I think that it is the handwriting of Mr. Jones. It looks a little different from the way in which he usually writes.

Question. Turn to page 168 and find the order in the case of Lapsley vs. Marlin. Is that order designated as "erroneously entered?"

Answer. It is. There are black lines drawn round it, which is the usual mode of designating that it is erroneous.

Question. In whose handwriting is the entry made that it is erroneous?

Answer. I think that it is the handwriting of Mr. Jones. It is different from his usual handwriting. He can tell about that better than myself.

Question. Turn to page 170 and you will find two entries in the case of Lapsley vs. Mitchell and Warren also marked erroneous. What is the entry outside the order?

Answer. "Not entered in the form agreed to by the parties."

Question. In whose handwriting is that?

Answer. The handwriting of Mr. Jones. The others are different from his usual handwriting.

Question. Have you any knowledge when those marginal entries were made?

Answer. I have not. I know that they were never made by me.

Question. You do not know by whose order or direction they were made?

Answer. No, sir; for I was not in court.

Question. Do you know whether they were made at or about the time of the entry in the book?

Answer. Judging from the book, I should say at the time.

Question. Do you know?

Answer. I do not know anything about it, for I was not there.

Question. Do you know that they were not entered until a long time after the orders were entered?

Answer. I do not know when they were entered upon the book, except from the book itself. I do not know when any of these orders were made, because I say I was not there. I only say that they appear to be upon the minutes on a given day.

Question. Did you ever see those orders marked "erroneous" without that mark?

Answer. Never.

THURSDAY, MAY 6, 1858.

Continuation of the examination of James Love.

Question, (by Mr. Clark.) Who was the most extensive practitioner in Judge Watrous's court?

Answer. Perhaps Judge Hughes has brought more suits upon Mr. Hale or Ballinger. These three gentlemen have most of the land suits.

Question. Who was the most extensive practitioner in Judge Watrous's court in cases involving the title to land?

Answer. Mr. Robert Hughes, I think.

Question. To what extent was Thomas M. League a litigant in the court?

Answer. I do not recollect to what extent; he has been a considerable litigant there in land cases.

Question. Was Mr. League such litigant prior to 1850?

Answer. I think his first commenced during 1850 or after; but I am not positive.

Question. Were the land cases tried in Judge Watrous's court disposed of, for the most part, upon questions of law, or upon questions of fact?

Answer. In every land case that has been tried in the district court since I was clerk more than one question of law has arisen; when the judge has decided the questions of law, they generally have gone to the jury on questions of fact; in some instances the questions of law have decided the cases.

Question. Have the land cases been adjudicated principally in what might be termed law cases, or equity cases?

Answer. They have generally been tried on the law side of the docket.

Question. Was James Hewitson a litigant in Judge Watrous's court?

Answer. Yes, sir.

Question. To what extent?

Answer. I do not remember to what extent. He had several suits there. I do not recollect the extent of the suits at all. I know that he was a litigant there; but to what extent I do not remember.

Question. Were the litigations of Mr. League land cases, or cases of personal action?

Answer. I think, in every instance, they were land cases.

Question. What was understood to be Mr. League's business?

Answer. I do not know that there was any understanding about it. I have seen him daily. His employment seemed to be buying lots wherever he could get a good bargain. He is a large holder of property.

Question. A land speculator?

Answer. I never knew him to sell any lots. I have never known him to sell a foot of land.

Question. He is a land buyer?

Answer. He improves what he buys, and rents it. He is building there now. I have never known him to sell a foot of land.

Question. He would not improve these eleven-league tracts?

Answer. That purchase was for speculation. All the outside lands which he purchased he purchased for speculation. He never intended to use them.

Question, (by the chairman.) Has he purchased a large amount of lands for speculation?

Answer. I think he has.

Question. Involving these old litigated titles?

Answer. Yes, sir ; and he made one pretty bad one, for he lost all of it.

Question. Where was that?

Answer. It was west. He lost some of them. I have heard him regret that he ever touched them.

Question. What was the nature of his business in 1850?

Answer. The nature of his business, ever since his arrival in Galveston, has been that of a property dealer in Galveston, or the purchaser of lands outside for speculative purposes.

Question, (by Mr. Clark.) Did Mr. League continue, after 1850, to be a litigant in Judge Watrous' court?

Answer. His cases have passed away one after another, and he has few suits there now. I think that they are pretty well closed up.

Question, (by the chairman.) Do you remember what time Mr. Hewitson became a litigant in the court over which Judge Watrous presided?

Answer. I do not remember the time ; but I think he became a litigant before Mr. League. I do not remember certainly.

Question. Suits involving a large amount of property?

Answer. Yes, sir.

Question. Is this League, of whom you speak as the agent who buys land for speculation, the same one who owns an interest with Judge Watrous in the La Vega title?

Answer. He is the same person. It is the same Thomas M. League.

Question. Is Dr. Hewitson the same witness whose deposition was taken to establish the power of attorney in 1854 or 1855?

Answer. I do not know. I did not know that any man by the name of Mr. Hewitson had made any such deposition?

Question, (by Mr. Clark.) What was the character of Hewitson's litigations?

Answer. Their character I do not know ; but they were about land.

Question. Land cases?

Answer. Yes, sir ; old titles.

Question. Do you mean by that, border leagues?

Answer. I mean titles acquired before the republic of Texas was established.

Question. Who, for the most part, was Hewitson's attorney?

Answer. I think that Mr. Hughes was.

Question. Who, for the most part, was Mr. League's attorney?

Answer. Mr. Hughes.

Question. Was Dr. Cameron a litigant in Judge Watrous' court?

Answer. I think that he has a suit ; perhaps there are two. I do not remember the number. He has one there, I know.

Question. What class of suits?

Answer. I know that they are about lands. The class of cases I do not know. There are various classes.

Question. Who was his attorney?

Answer. Mr. Hughes. I know that, because I have been present at their interviews. They have been in the clerk's office together.

Question. Since you have been connected with Judge Watrous's court what has been the subject matter of the bulk of the litigation?

Answer. It has been about lands the first part of his court, and lately a good deal so. I do not know whether the most cases are for debt or land. There have been 746 suits brought in that court since its establishment in 1846. I should say, to make a guess, that half of them are land, and the other half debt cases. There have been about 80 chancery suits, and there have been a great many admiralty suits. The chancery suits, I think, have generally been about land.

Cross-examination by Hon. Caleb Cushing for Judge Watrous.

Question. Did not the League cases, of which you speak, mostly depend on the border and littoral league questions?

Answer. They did.

Question. Did not most of the land cases referred to by you depend on the border and littoral league questions?

Answer. They did.

Question. Do you know on what the Hewitson cases depended?

Answer. I do not.

Question. Do you remember what cases involved the question of Power's colony?

Answer. I believe that every case Mr. League was interested in at that time depended on that colony.

Question. Was that colony or not within the littoral leagues?

Answer. A portion of it was, I know.

Question. You do not remember whether the whole was or not?

Answer. I do not know certainly whether the whole was or not; nor do I recollect the boundaries precisely. I know that in the trial the question was raised as to the littoral leagues.

Question. Do you remember that Thomas M. League's cases and Hewitson's cases depended on the littoral question?

Answer. I think they did.

Question. Do you know whether or not the Thomas M. League cases, of which you speak, were decided for or against him in the district court?

Answer. I do not at this moment recollect how they were decided. I know that some of them went to the supreme court, but I do not know how they were decided.

Question. Did the Lapsley cases involve the littoral and border league question?

Answer. They did not.

Question. In answer to a question of the committee, you said that Mr. League was a land speculator; do you or not mean that he is a capitalist, investing his capital in land?

Answer. I have known him to borrow large amounts of money at 12 per cent. and more, to lay out in town property.

Examination resumed.

Question, (by the chairman.) When did Dr. Cameron become a suiter in the court over which Judge Watrous presided?

Answer. I do not recollect the time. I have seen him there twice. I knew him some years ago. I was always glad to see him. He had lived there thirty or forty years, and he could always tell me something that would interest me. When he commenced his suits I do not know.

Question. Before 1850?

Answer. I do not recollect the time.

Question. Do you intend to say that Thomas M. League had no land suits that involved other points of law, except the border and littoral league question?

Answer. I do not remember at this moment of a single land suit—perhaps they do; but the majority of Mr. League's cases were in the region of country where the littoral league was made a question.

Question, (by Mr. Cushing.) Do you know whether or not the Thomas M. League cases were in Power's colony?

Answer. I was once Mr. Power's attorney in these cases, and before Mr. League bought them. My recollection is, that the Power's claims were upon the bay and upon the islands. He got the grants from the Mexican government before the revolution. I had the papers for a long time. I advised him to get other lawyers; that I could not attend to them. I took no fee from him, though I had done a great deal for him.

Question, (by Mr. Evans for Mussina.) Were there not in these cases some questions other than the border and littoral league question?

Answer. There were questions raised on the concessions. All old claims are liable to objections about titles, concession grants, the power of Mexico to do it, the power of the persons to take, in these particular cases, and so on. I do not know the questions which arose, but I presume that questions of that sort did arise.

Question. Look at that document and say whether it is not a true paper?

Answer. I see a bill of costs made out by Mr. Jones, my deputy. It is a bill of costs in the case of Mussina *vs.* Stillman and others. The whole bill of costs is \$153 57. In it there is a charge, for order dismissing the case, of 25 cents. The bill was paid by Joseph Osterman, who was security for the costs.

Question, (by Mr. Clark.) Have the land cases in Judge Watrous' court been determined chiefly on questions relating to the original titles, or on questions arising since the Texas revolution?

Answer. It is difficult to answer the question. These cases are very complicated. The defence against these suits has generally come from titles arising since the revolution. That is the general ground of defence. Another ground of defence, in many of the cases,

is objecting to the particular manner in which the locations were acquired. Of course, they take objections to everything.

Question. The plaintiff's case has generally rested upon the original titles?

Answer. Generally so.

Question. The defendants have generally defended themselves on rights or titles accruing since the revolution?

Answer. I do not remember a single case in which the defence has not depended on that. They have taken every ground of defence, but the general defence rests on titles derived from the State or republic of Texas after the revolution. Every case brough to the federal court was brought under a Mexican grant, and every defence was made on titles acquired under the republic or State of Texas. So far as I recollect, in every land suit in that court that has been the issue.

Question. The plaintiff's case rested upon the Mexican title, and the defendant's case rested either upon the defects of location under the Mexican grant, or upon a title acquired under the republic of Texas?

Answer. In every instance, I think.

Question. What has been the usage in Judge Watrous' court as to taking appeals to the Supreme Court of the United States; are such appeals taken in open court or at chambers, and is the amount of the appeal bond fixed *ex parte*, or on notice to the respondent?

Answer. I have never known an appeal taken, except it was taken in open court. I have never seen a single party attempt to fix the amount of the bond, but it has been generally a matter of discussion before the court as to the amount. The court generally fixes it on my information of what will be the probable cost of the suit; sometimes it is \$250, sometimes \$500, and sometimes \$1,000. It has never, to my knowledge, been taken except in open court.

Question. It has been done informally, but in open court?

Answer. Yes, sir.

Question. Do you recollect any occasion when counsel in behalf of Mussina attempted to take an appeal in the case of Cavazos *vs.* Stillman and others?

Answer. According to my recollection no such application was ever made in court.

Question. Do you not remember Mr. Atchison applying to the judge, in open court, in the month of January, 1857, to fix the amount of the appeal bond, on an appeal proposed to be taken by Mussina?

Answer. I do not.

Question. Were you at the term of the court holden in January, 1857?

Answer. I believe I was in court every morning; it was the first time in my life I had been so punctual in attendance, and I boasted of it. During that term I believe that I was there every morning at the opening of the court.

Question. Do you not recollect that Judge Watrous handed you a

petition for an appeal which he had received from Mussina's counsel?

Answer. Never.

Question. Did you not furnish to Mr. Atchison a certified copy of such a paper?

Answer. I found in the office a petition for appeal, with the words endorsed upon its back, "filed the 13th day of January, 1857." I either gave a copy to him myself, or directed that he should have a copy.

Question. Do you know how that paper got in the office?

Answer. Not of my own knowledge.

Question, (by Mr. Billinghamurst.) In whose handwriting is the file made on the appeal?

Answer. The handwriting of my son.

Question. He is your deputy?

Answer. He is the sole manager of my office when I am not there.

Question, (by consent of all parties.) What account of that paper did your deputy give you?

Answer. He told me that Mr. Atchison brought the paper into the clerk's office, and asked him to give it to the judge. He endorsed on it, he said, "filed the 13th day of January, 1857," and told Mr. Atchison that he would not give it to the judge, but that he would go with him to the judge's.

MR. EVANS objected to the declarations of the deputy clerk, except as to the reception and filing of the paper.

WITNESS. He reported to me that he had gone with Mr. Atchison to see the judge. Mr. Atchison told the judge, he said, in his presence, that he had come there to present his petition for an appeal; the appeal had gone up before, but they had not made all of the parties. The judge asked him if the time had expired. He said no. The judge then said, "I grant the appeal. See Mr. Hale and agree upon the bond, and I will perfect the appeal for you."

Question, (by Mr. Clark.) Did he report this as having occurred at court or chambers?

Answer. At chambers.

Question. Do you recollect that Mr. Atchison came into court at any time during that term, and having a conference with Judge Watrous?

Answer. I have said before that I did not. Mr. Atchison, perhaps, is not engaged in any other case in that court but that. I never heard a conversation between him and Judge Watrous during that term, to my recollection.

Question. Have you the minutes here which will enable you to state how Judge Watrous was engaged on the 13th of January, 1857?

Answer. My memorandum book will tell me whether a case was on trial before him at that time. I see nothing in the book which will make me say that there was a case of actual trial.

Question. You have no recollection of having seen Mr. Atchison in that court during that term?

Answer. I think I did see him in the court during the term.

Question. Do you know on what business?

Answer. I do not.

Question, (by Mr. Cushing, for Judge Watrous.) Were you in court at the opening of the court on the 9th of January, 1857?

Answer. I was.

Question. Do you remember whether or not any motion was made by Mr. Atchison, or whether there was any conversation between him and the judge during that term?

Answer. I never heard any motion made by Mr. Atchison, or any conversation between him and Judge Watrous during that term.

Question. Were you in court at the opening of the court on the 10th of January, 1857?

Answer. I was.

Question. Do you remember whether or not at that time any motion was made in court by Mr. Atchison?

Answer. There was none, to my recollection.

Question. Have you here the clerk's minutes of that term?

Answer. I have not.

Question. Have you the clerk's private memorandum book of that term?

Answer. I have.

Question. Please examine that book as to the 9th, 10th, 13th, 14th, and 15th of January, and state whether any entry appears there pertinent to the subject of this inquiry?

Answer. On the 9th and 10th there is nothing upon this book which shows the presence of Mr. Atchison in court, or any motion made by any person in the case. I make the same answer as to the 13th, 14th, and 15th.

Question. Where did you sit at the opening of the court on these days?

Answer. The judge sat behind where I was, and a little above. I was between the judge and the lawyers. The lawyers, when they had anything to say, came up to the space in front of the judge, and near me.

Question, (by Mr. Evans.) When did you obtain that information from your deputy?

Answer. After Judge Watrous left Galveston, Mr. Hale sent from Washington city a copy of Mr. Mussina's affidavit before the Supreme Court of the United States, stating certain facts in relation to this matter. It was accidentally I heard of it. Somebody told me of that affidavit having been sent. I went and got the affidavit and read it. I believe and knew that there were inaccuracies in it. I went to the office. My soon has been doing all the business there for a good while. Except when the court was in session, he was then the sole manager. I read the affidavit to him, and asked him what he knew about it. Up to this time I did not know of these proceedings, or that the appeal had been filed. I went and got the paper. He said that Mr. Mussina was mistaken, and he then repeated what I have stated. I got four or five affidavits and enclosed them to Judge Watrous. All of us agreed in making the affidavits on our

own recollection. Mr. Cleveland, Mr. Parker, Mr. Jones, my son, and myself, each of us wrote his own.

Question, (by the chairman.) Would such motions necessarily go upon the private memorandum book? Did you put on that book every motion and everything that was done in court?

Answer. No, sir; I did not, and they would not, of necessity, go there; but if there was anything for the clerk to do arising out of that motion, it would go upon that private memorandum book. If the judge directed me to make out a bond, and I could not do it in court, I would make a memorandum to make out the bond.

Question. How long did you daily sit in court during that term?

Answer. Always until eleven o'clock, generally not longer.

Question. What time did it meet?

Answer. Ten o'clock.

Question. You sat about an hour?

Answer. I sat there until a trial came up; sometimes I sat all day. As a general rule, however, I left at eleven o'clock.

Question. How do you remember that you were in court on the morning of the 9th of January?

Answer. From two circumstances: I see every order that is in this private memorandum book is made by myself. I remember that it was the only time that I ever had invariably attended court, and that I boasted of it.

Question. What time did that court commence that term?

Answer. On the 5th of January.

Question. Were you there on the morning of the 5th?

Answer. Yes, sir.

Question. And on the 6th?

Answer. Yes, sir.

Question. You remember you were there on the other days, because you remember that you were there every day?

Answer. That is my recollection. I see on this book that every order made there is made in my own handwriting. Sometimes part of an order is made in another's handwriting and finished by myself. Probably I was called to do something else there at the time, and the order was begun by my son or Mr. Parker.

Question. I understood you to say that your son said that the file mark was put upon the petition by himself?

Answer. Yes, sir.

Question. And that on the day it was handed to him?

Answer. Yes, sir; on the 13th of January.

Question. And on that day he and Mr. Atchison went to see Judge Watrous?

Answer. Yes, sir.

Question, (by Mr. Billingham.) In that conversation with your son, did he inform you that Mr. Atchison had represented that he had been to Judge Watrous with the petition before?

Answer. No, sir.

Question. Did lawyers, practicing at Galveston, frequently go up to the bench and seek information from the judge?

Answer. I never saw a lawyer address the judge except from his place. The judge had adopted a rule that he would not permit a lawyer to speak to him outside the bar which he had assigned. Frequently he has said to a lawyer that if he wanted to say anything he must come within the bar.

Question. Does Judge Watrous ever permit a lawyer to approach him and to speak to him in a low tone?

Answer. I have never seen an instance of the kind.

MAY 12, 1858.

Mr. LOVE, having heard read the foregoing testimony, says: In stating the conversation with my son, about his going to see Judge Watrous with Mr. Atchison about the appeal, I wish to add that my son said he went with Mr. Atchison to see the judge, or was present when Mr. Atchison presented the petition to the judge.

Question, (by Mr. Cushing.) Do you recollect anything else said by your son, on the subject matter referred to in your explanation?

Answer. What I mean by my answer is this: My son told me that he either went with Mr. Atchison, or was present when Mr. Atchison presented the petition to Judge Watrous—not that he heard it read at all, or that it was read at all—and that Judge Watrous asked him, “Is the time out?” just as I previously stated.

WEDNESDAY, MAY 12, 1858.

Continuation of examination of James Love.

Question, (by Mr. Cushing.) Were you present, at the April term of 1851, in the court when the case of Cavazos vs. Stillman and others was disposed of at that term?

Answer. I was.

Question, (by Mr. Cushing.) Do you remember whether anything was said, at the April term of 1851, by counsel to the court, and by the court to counsel, in reference to the time when the decision should be rendered in that case; and if you do, please to state the whole of it, so far as you remember it?

Answer. The particular term, whether April or May, I do not remember; but when this suit was submitted to the judge for decision, I remember that Mr. Hale, the counsel for the complainant, and Mr. Hoard, who was one of the parties interested, said to him: “We have agreed upon a decree in this cause, and wish you to render it at this term.” I was very solicitous myself to have it rendered then, because I had a pecuniary interest in the costs, which amounted to \$600 or \$700, and which I was to get so soon as the decree was rendered. I wanted the money, and I could not get it before. Judge Watrous said from the bench: “Is Mr. Mussina represented here?” The reply was that he was not. Judge Watrous then said: “There are some questions in this case on which I want

to inform myself, and as Mr. Mussina is not represented, I will take it under advisement until the next term.

Question, (by Mr. Clark.) You say that Mr. Hale and Mr. Hoard were both present?

Answer. Yes, sir. Mr. Hale was the complainant's counsel, who managed the case for the complainant himself; and Mr. Hoard was one of the defendants, whose interest, it appears, was in conflict with Mussina's.

Question. What other of counsel in the case were present on the occasion to which you refer?

Answer. Mr. Ballinger was there for Belden and Stillman, and he also wanted the decree entered. I do not remember any other than Mr. Ballinger and Mr. Hale. So far as I can remember, all but that part of the counsel who represented Mr. Mussina were present.

Question. Who, of counsel for Mussina, do you refer to?

Answer. He has had so many lawyers I cannot state who they were then.

Question. To whom did you refer?

Answer. Mr. Merriman and Mr. Potter had been in the case, and had gone out of it. Mr. Atchison had been in the case, but I do not remember whether he was in court or not. Mr. Volney E. Howard had been in the case, but he was not there. There was Mr. Hartley, too.

Question. Who acted during the hearing of the cause for Mussina?

Answer. I do not recollect that any person appeared for Mr. Mussina specifically.

Question. Who represented Mussina's interest at the final hearing of the cause?

Answer. The lawyer who represented the defendant must, to some extent, have represented Mussina's interest.

Question. Then the same counsel who represented Mussina's interest represented the interest of Mussina's co-defendants, whose interest was identical with that of the complainant?

Answer. If the complainant failed, Mr. Mussina gained his suit. If the complainant succeeded, Mr. Mussina, as well as Stillman and Belden, lost their suit.

Question, (by the chairman.) Was there any counsel there representing Mussina other than the counsel who had the peculiar representation of the other defendants?

Answer. I do not recollect whether there was or not.

Question. I understand you to say that there was no lawyer there representing Mr. Mussina as such?

Answer. Not to my recollection, as making an argument or speech in the case.

Question. I understand you to say that all the counsel who had appeared in the case were agreed as to the decree that should be rendered?

Answer. The declaration to the judge which I heard, was this: "We have agreed on a decree."

Question. Who said it?

Answer. I think it was Mr. Hale. Mr. Hoard, one of the defendants, also said so ; and that he would rather have it decided against him than not to have a decree at that term. Judge Watrous asked from the bench, "Does Mr. Mussina consent?" They said "no." Then the judge replied, "If Mr. Mussina does not consent to this decree, I will not render it at this term, but will take it under advisement and render a decree at the next term."

THURSDAY, MAY 13.

Continuation of the examination of James Love.

Question, (by Mr. Clark.) Are you able to state the dates on which the final hearing of the case *Cavazos vs. Stillman* and others took place?

Answer. I am able to state it only from having seen it on record since I have been here. I know, however, that the January term lasted about seventeen days, and that that was within a day or two, perhaps two days, of the lapse of the term.

Question. How much time was occupied on the final hearing of that cause?

Answer. Many days. The number of days I do not know. The papers were very voluminous, and if I recollect aright it took a week before the papers were read.

Question. State the name of each one of the counsel who participated at that hearing on either side?

Answer. I speak only from memory. Allen and Hale were the leading if not the only counsel for the complainants. I cannot say with precision that I remember the name of any single one of the counsel that represented Mr. Mussina. I know he was represented by some one of his lawyers; and he himself was present in court every day of the hearing, to my recollection.

Question. Was the case argued on behalf of Mussina?

Answer. I cannot say that it was, from my own recollection.

Question. Was there any oral argument?

Answer. There was.

Question. In whose behalf was the oral argument given to which you refer?

Answer. Mr. Hale argued for the complainants, and I know that Mr. Ballinger argued for some of the defendants. I do not recollect what lawyer was attending on Mr. Mussina's behalf. I know that his branch of the case was represented, but by which of the lawyers I do not recollect.

Question. Nor do you recollect any argument on behalf of Mussina?

Answer. None.

Question. Do you know whether any brief was submitted on behalf of Mussina?

Answer. I do not.

Question. Was there more than one hearing of the cause?

Question. I know that Judge Watrous opened the case twice after

the first hearing ; once for Mr. Volney E. Howard, and once for Mr. Hartley. Mr. Howard came from Washington city during the progress of the case, and it was opened for him. I heard him in court make an argument in that case, the only one I ever heard him make. His motion was to exclude Mr. Hale's deposition in that case, and I subsequently heard the judge's decision, overruling that motion.

Question. Did he argue to the merits of the case beyond the point of the exclusion of Hale's deposition?

Answer. Not then, and I did not hear him any more.

Question. Do you mean to say that the case was opened twice after the hearing had been concluded?

Answer. I think so on the application of Mr. Mussina's lawyers.

Question. Do the minutes of the court afford any evidence of that?

Answer. I do not know ; I think not.

Question. Was the case thus opened for argument twice at the same term?

Answer. I think so—either at the April or May term. The one ran into the other, and I do not recollect precisely how the various orders were made as to time.

Question. Were you present at those two additional hearings of which you speak?

Answer. I was present when Mr. Howard made his speech, and I was present when Mr. Hartley got up to make his motion, but I did not hear it.

Question. What was the motion?

Answer. I think it was for a rehearing?

Question. Was that motion filed?

Answer. It was made by Mr. Hartley. I have no recollection as whether it was filed.

Question. Was Mussina in court when it was stated to Judge Watrous in open court that a portion of the parties defendants and the parties complainants had consented to a decree?

Answer. I do not recollect whether he was or not.

Question. To whom did Judge Watrous address the inquiry whether Mr. Mussina had or had not given his assent to the decree?

Answer. He addressed it generally. When they wished the judge to make a decree at that term, and stated that they consented to his doing so, he asked, do you all consent, or does Mr. Mussina consent. Some one answered that Mr. Mussina did not agree that the opinion should be delivered that term ; and then Judge Watrous said what I told you yesterday.

Question. After that time was there any other hearing?

Answer. None other that I know of.

Question. Was there any other hearing after the time when the judge put that inquiry in regard to Mussina?

Answer. I think not. I am not positive. This occurred, if I recollect right, some days after the case had closed, and before he refused to deliver the decree at that term. That is my impression.

Question. Have you conversed with Judge Watrous, since the adjournment yesterday, in regard to the matter of this rehearing?

Answer. I conversed with him about nothing with regard to the rehearing whatever.

Question. Have you conversed with him at all in relation to the testimony you gave yesterday?

Answer. I did.

Question. As to what point?

Answer. Simply as to the point that he misunderstood my testimony yesterday. I approached him, and he said, "I do not wish to talk with you as a witness at all." He repeated that; and, said he, "you may talk to anybody else you please, but I will not hear you." He staid in the room a few minutes and I spoke to others about it. He made no reply, except to say that he thought I was mistaken in what I stated yesterday; that is, that my version of it was not exactly correct. Mr. Cushing was present when I addressed the judge, and both of them said they would not hear me.

Question. Did you understand what decree had been assented to by the complainants and a portion of the defendants?

Answer. I did not understand that any decree was assented to. I understood that it was submitted to the judge for a decree; not that any special or particular decree was agreed upon, but that they agreed and desired that the judge should render a decree at that term. Mr. Hoard said he would rather lose than not have it decided at that term.

Question. Whom was Hoard representing at the time he said he would rather have the case adjudged against him than have the decision delayed?

Answer. Hoard and Bass were interested for the defence. They were partners, and had bought out Belden and Stillman, or Hoard was a party in interest, and there is some recollection on my mind either that he had bought out Stillman and Belden, or his interest was identical with theirs.

Question. Was there any identity of interest between Bass and Hoard and the complainants?

Answer. No identity of interest that went to the whole suit. I have understood that Mr. Hoard himself had bought out some interest from a portion of the complainants, but I do not know it of my own knowledge.

Question. Am I to understand you as saying that no declaration was made in open court that Bass and Hoard and the complainants had consented to any particular decree?

Answer. Certainly not. There was no decree written up that I know of. All I understood was that they desired the judge to render a decree according to his own knowledge of the case. There was some question on Spanish law which he said he had not an opportunity of investigating, and that on account of Mr. Mussina's interest it was indispensable that he should investigate that branch of the subject before he gave a decree; and that shows that the decree could not have been drawn up at the time. The consent was simply that he should make a decree that term.

Question. What counsel were present in court when Mr. Howard

made the argument of which you speak as to the admissibility of Hale's testimony?

Answer. I know Mr. Hale was there, and I presume all the other lawyers connected with the case were there. I usually left the court as soon as speeches were commenced. The only reason why I happened to hear Mr. Howard's argument was because it was in the morning, and during that term I was always there in the mornings. I heard no other speech but Mr. Howard's on the case during the whole term.

Question. What is the practice in Judge Watrous's court as to the entry of a decree in an equity case; is it usual for the judge to give a written opinion?

Answer. Always.

Question. Was that course pursued in the case of Cavazos against Stillman?

Answer. Judge Watrous does not often draw up the decrees himself. He announces to the lawyers his decision. They generally draw out the decrees, and then they are read in court in presence of the adverse counsel, and very often there are alterations made in these decrees. When one party objects to a particular clause of the decree the judge says "my opinion is so and so;" "it must be corrected so and so;" and it goes on the record as corrected.

Question. My question was whether it was the practice of Judge Watrous to deliver a written opinion?

Answer. He always delivers written opinions in chancery cases, and they always go on the record.

Question. Was there a written opinion in the case of Cavazos against Stillman and others?

Answer. I think so.

Question. Where is it?

Answer. Among the papers, I presume.

Question. Why was it not placed on the record?

Answer. I did not know that it was not placed on the record; I presumed it was.

Question. You distinguish between an opinion of the court, after the hearing of the cause, and the decree in the cause?

Answer. I make that distinction. The judge himself does not, as a general rule, write the opinion.

Question. You say the judge does not write the opinion?

Answer. The judge generally reads it from his desk. It is his own paper, which he carries home with him. He then says, "gentlemen, draw up your decree in accordance with this opinion;" and then when the decree comes in, and is agreed upon, it goes on the record.

Question. Was that done in the case of Cavazos *vs.* Stillman and others?

Answer. I think so.

Question. Do you recollect that it was?

Answer. My recollection is not very distinct on the subject, except that I know that is the judge's universal habit in regard to matters of that sort, and I think it was done. I think I recorded it.

Question. Recorded it where?

Answer. In the minute book.

Question. The minute book that is here?

Answer. Yes; but I am not certain about it. My recollection at this moment is, that I did not record it.

Question, (by Mr. Ready.) It is the decree that is entered on the minutes?

Answer. Yes; the decree is entered.

Question. The paper which the judge reads from his desk, is that recorded?

Answer. No; it is his private paper, which he carries to his room.

Question, (by Mr. Clark.) Where was Mussina at the time Judge Watrous propounded the inquiry whether Mussina assented to the decree?

Answer. Mussina was in Galveston. I do not know that he was in court at the time, because I have no distinct recollection of seeing him there.

Question. Can you give the remarks of counsel in substance or in language to which the judge thus responded?

Answer. My recollection is, that Mr. Hale or Mr. Ballinger—and probably it was Mr. Ballinger—said to the judge, “will your honor make a decree in this case; we are very anxious to have a decree entered at this term;” and he then responded as I have said to you: “Do you all agree to this.” I am speaking now of the substance of what he said; and he asked in the end if Mr. Mussina had consented that the decree should be made in that term, and some one replied—whether Mr. Hale or Mr. Ballinger, or some other of Mussina’s counsel, I do not recollect—that he had not consented. The judge then refused to give the decree, and said, I hold it over to the next term.

Question. What had any counsel to do with the matter of the time when Judge Watrous would give his decision?

Answer. It was an inquiry in court. The court was near its adjournment; and of course a counsel is permitted to ask a judge if he intends to make a decree during a term in a case that has been tried.

Question. You did not state it as an inquiry of that description. Do you mean to be so understood?

Answer. I mean to say what I said yesterday, that on the inquiry of Mr. Hale or Mr. Ballinger, or on their announcement that they wished to have a decree entered at that term, the judge responded as I have told you.

Question. Did they express themselves willing to have a decree entered that term, dismissing the bill?

Answer. I did not hear anything about dismissing the bill.

Question. What sort of decree did they refer to?

Answer. As in every chancery case, for the judge to decide it.

Question, (by Mr. Tappan.) They wanted the decision?

Answer. Yes; they wanted the decision at that term. I gave as a reason for that that Mr. Hoard was pressing for an opinion on account of a pecuniary interest; and I had asked Mr. Ballinger to see

if he could not get a decision on account of the pecuniary interest I had in it. It was desired that the judge should decide the case during the term, and not postpone it any longer; and the sole reason why he did not do it was the objection that Mussina had not consented.

Question. Was anything said by any of the counsel indicating that any of the parties defendants were in interest with the parties complainants?

Answer. Nothing by the counsel that I know of; but I had heard it.

Question. Did you know that there was any community of interest between the complainants and certain of the defendants?

Answer. I knew from conversation with Mr. Hoard that he had purchased a portion of the interest of the complainants. I did not know it in any other way.

Question. Did the judge know that?

Answer. Not to my knowledge.

Question, (by Mr. Chapman.) What portion of your testimony yesterday was it that Judge Watrous referred to when he said your recollection was erroneous, or your statement was not correct?

Answer. I had designated the names of divers lawyers, who had appeared for Mr. Mussina, and had said that Mr. Horde, and Mr. Potter, and Mr. Merriman, and Mr. Hartley, and Atchison were the counsel for Mussina, and I said that I thought Atchison was perhaps in court at the time attending to the case; Judge Watrous said no; that Mr. Atchison did not attend to it at all. That was one point.

Question, (by Mr. Billingham.) Did he suggest who did attend to it?

No, sir; he did not say anything in my presence then. I heard him say this morning in conversation with another, Mr. Howard I think, that Mr. Potter attended to it; but he did not say so to me then.

Question, (by Mr. Chapman.) You were going to state another point, what was it?

Answer. It was in regard to my testimony as to Mr. Atchison's conversation with my son. I still adhere to what I said, although his recollection differs from mine. I had said that I understood from my son that Mr. Atchison presented the petition to Judge Watrous in his chamber. He said that it had not been presented at all, and that I had misconceived what my son had told me in relation to the facts. I gave my understanding of what it was, and I retain that recollection yet.

Question, (by Mr. Clark.) Look at the certified statement of the order of proceedings at the hearing in the case of Cavazos against Stillman, (page 258 of record, in Shannon *versus* Cavazos and wife,) and say by whom was that statement made?

Answer. This is copied in the handwriting of Mr. Jones, my deputy clerk.

Question. By whom was the original prepared?

Answer. I do not know, certainly; but I believe the original was presented to the clerk by Mr. Hale, for him to verify, by the endorse-

ments on the papers filed. Some of these endorsements I had made in my own handwriting.

Question. Is it a true account of the order of the proceedings at hearing?

Answer. It is impossible for me to say, but I believe so. If I compared it with Mr. Hale it was a true account, to the best of my judgment.

Question. Have you certified it?

Answer. Mr. Jones signed my name to it under a written authority from me, under the decision of the court.

Question. Was the seal of the court attached to the paper in your office?

Answer. I think so.

Question. Is this the seal of the court? (exhibiting it.)

Answer. It is.

Question. And is this the seal of the court attached to your certificate?

Answer. Yes, sir.

Question. Do you mean to say that this is or is not a reliable statement of the order of the proceedings at the hearing?

Answer. I presume it is. I do not know otherwise than from the paper itself. I presume it is correctly copied by Mr. Jones from the original on file in the office.

Question. Please refer to it, and inform me which of the papers, or depositions described in the order of the proceedings, were presented on behalf of Mussina?

Answer. I cannot do so.

Question. After Judge Watrous inquired whether Mussina assented to the decree in the manner you have stated, was there any further or other hearing of the case before the final making up of the decree?

Answer. I think not, but I am not certain. It was some days after the case was submitted before the judge was applied to to know if he intended to make a decree in the case that term. It was between the time the case was closed and the time he announced that he would take it under advisement.

Question. According to your course of business in the office, would that certificate have been given if it were not true?

Answer. Certainly not, except it was a mistake.

Question. Would that certificate have been given if it did not embrace all the proceedings at the trial?

Answer. No, unless something was omitted or neglected by mistake.

Question. Have you any knowledge of any omission?

Answer. None in the world. In making up this record I think I copied one or two depositions; but, with that exception, my son made out the record, from beginning to end. My instructions to him were, as soon as the record was completed to submit it to the lawyers of the several parties, for examinations; and he reported to me that he had done so, and sent it on. I never even compared the record with it. It was his first record, and I assisted him in making out the

catalogue from the order books, from the beginning to the end of the cause, so that he could consecutively take everything in its proper order; and sometimes, when there was a difficulty about it, he would apply to me, or more frequently to Mr. Jones, who had quit the office, but who still was kind in instructing him. Who compared it with him I do not know. I never did; I signed the paper, because he did not come under the rule, at that time, of a deputy, with privilege to sign my name.

Question. Is this your original signature? (exhibiting a paper.)

Answer. No; this is Mr. Jones's signature.

Question, (by Mr. Clark.) Was he authorized to sign your name?

Answer. Yes, under the decision of the court, I gave him, and my son, and one other deputy, (Mr. Hughes,) authority to sign my name, without doing so as deputy.

Question. Is it usual in your court to permit the counsel for either party to prepare the record of the proceedings at the trial?

Answer. Not at all; but Mr. Hale is a very accurate man about business. If I was in the office when he presented this order of proceedings, I would have taken every paper and examined it paper by paper, to see that it was exactly correct, and I presume that that was done by Mr. Jones. He had the sole management of the office at that time.

Question. Can you say whether any brief was submitted on the part of Jacob Mussina?

Answer. I cannot.

Question. Can you say whether the defendant, Mussina, was or was not represented by counsel?

Answer. I say that I do not recollect any one instance in which the Cavazos case was on trial, or that a motion was made about it, in which all the parties were not represented by some one lawyer or other.

Question, (by Mr. Billinghamst.) Has Dr. Hewitson been personally present at Judge Watrous's court at any time during the pendency of his litigations?

Answer. I never saw him in my life, to my knowledge.

Question. Do you know whether he was personally acquainted with Judge Watrous?

Answer. I do not.

Question. Did he have a suit against Jones and others?

Answer. I believe he had. Mr. League was connected with it in some way. The suit was by either Hewitson or League.

Question. Do you recollect that they each had such a suit?

Answer. It is impossible for me to recollect. They were all the same class of suits, and I have no distinct recollection of who were the plaintiffs.

Question. Do you recollect the suits of Hewitson against Aguirre.

Answer. I have no recollection about them; I remember the suit against Jones, because I copied a record in it at some time.

Question. Do you recollect a suit of Hewitson against Woods?

Answer. I do not. All the suits are on the docket.

Question. Refer to your calendar, at page 136, and see whether there is a suit entered there of James Hewitson against W. H. Jones and others?

Answer. Yes.

Question. See if, on the same page, there is another suit entered in which Hewitson was plaintiff?

Answer. Yes; here is James Hewitson against Egery.

Question. Look at page 140, and see if there is another suit there in which Hewitson is plaintiff?

Answer. There are two suits in the name of James Hewitson against John Woods.

Question. Can you state whether there are any suits now pending in Judge Watrous' court, in the name of James Hewitson?

Answer. I cannot.

Question, (by Mr. Chapman.) At the time the proposition was made by the counsel that Judge Watrous should enter the decree at the April term, do you know whether Judge Watrous was prepared to make the decree?

Answer. He said he was not; that was the reason he gave for taking it under advisement, because he wanted to look into some Spanish testimony or some Spanish laws relating to some testimony which had been given.

Question. Then why did he urge as a reason for not making it the absence of Mr. Mussina?

Answer. He did not give any reason, but simply suggested the question, does Mr. Mussina consent to it? and when the answer came no, he then announced his intention not to give the decree till next term, and assigned the reason that I have repeated to you.

Question. Did the proposition that he should make the decree originate with the counsel?

Answer. The inquiry was first made, I think, by Mr. Ballinger, who represented Stillman, and Beldon, and Hoard's interest, whatever it was; and Mr. Hale representing the complainants, agreed to it. I am not positive which of them made the proposition in court, but I think it was Mr. Ballinger, at my request, on account of costs of \$600 or \$700 due me, and I was certain of having them paid when the decree was entered. From that circumstance I presume it was Mr. Ballinger who made the motion, but I cannot be positive. It was either Mr. Hale or Mr. Ballinger. Both wished the judge to give a decree at that term.

Question. Was it said at that time that they had agreed on what the decree should be?

Answer. By no means. The inquiry was whether he would give the decree that term. I heard no suggestion made that they had agreed on a decree. Mr. Hoard got up and announced, in court, with some feeling—

Question. I so understood you, yesterday?

Answer. It was a mistake; I did not intend to say any such thing. I never heard of any decree being prepared or being assented to by these parties, in my life. I may have used the words that the parties

had consented to the judge making a decree, but I did not mean that they had consented to a decree that was drawn up. I simply meant that they consented to have a decree entered that term.

Question. Were you present when the decree was made?

Answer. I was not.

Question, (by Mr. Clark.) When did you first learn that there was a community of interest between any of the defendants in that case and the complainants, in respect of the lands which weret he subject matter of the suit?

Answer. I have no information on the subject, that I can call to my recollection, except from Mr. Hoard himself. In the beginning of the suit Mr. Hoard had an independent interest which, I think, was identical with Mr. Mussina's. I subsequently learned from Mr. Hoard that he had purchased out the interest of one of the complainants; which of them it was, or what the interest was, I do not know. He having an interest in the suit he was desirous that a decree should be rendered either on one side or the other. I knew nothing about it except from Mr. Hoard himself.

Question. About what time did you learn it?

Answer. I think I never knew it until after the case was tried.

Question. Do you recollect the making of an order in the cause striking out certain of the parties complainants, and making them defendants?

Answer. I have a recollection of such an order.

Question. Do you recollect whether Mussina was represented by counsel on that motion?

Answer. I do not.

Question. Do you recollect counsel for the defendants appearing in open court and consenting to put on record allegations giving the court jurisdiction?

Answer. I do not.

Question, (by Mr. Ready.) Do you know on which side of this case Mr. Hoard had the largest interest?

Answer. He swore there in court, when he was made a witness, that the largest interest he had was against the party calling him. That is my recollection of it.

Explanation of the forgoing testimony by witness before signing.

In that part of my depostion where I say I know the judge opened the case of Cavazos and others vs. Stillman and others twice, once for Mr. Howard, and once for Mr. Hartley, I wish to say that I may be mistaken as to his opening it for Mr. Hartley. I intend to say I think he opened it once for Mr. Hartley.

In the foregoing deposition I discover that I confounded the decree of the court with the opinion delivered by the judge before the decree is written. I intended to say that the opinion in no case is recorded, while the decree is in all cases recorded.

JAMES LOVE.

EXAMINATION OF JAMES S. HOLMAN.

FRIDAY, MAY 14, 1858.

James S. Holman, sworn.

Question, (by Mr. Clark.) How long had you been a client of Judge Watrous?

Answer. My acquaintance was commenced with him in 1837, and I think that immediately thereafter I became his client.

Question. Do you know of any interest acquired by Judge Watrous in land speculations after he went upon the bench?

Answer. I know of none.

Question. Do you know of his becoming the owner of any large tracts of unoccupied lands after he went upon the bench?

Answer. I know of his making a purchase on the Brazos river. I do not remember the name of the grant. It has been spoken of here.

Question. With some Alabama gentlemen?

Answer. Yes, sir.

Question. Do you know of any other interest of that description acquired by him?

Answer. I do not. If he has, I have no knowledge of it.

Question, (by Mr. Cushing.) When and where did you first hear that Judge Watrous was interested in the Lapsley purchase?

Answer. It was in New York and Philadelphia, 1850. I was with him.

Question. Who communicated the fact?

Answer. Judge Watrous himself.

Question, (by the chairman.) What time in 1850?

Answer. During the summer. I do not recollect the precise time.

Question. Cannot you state the month?

Answer. I was in Philadelphia during the warm weather. I should say that it was between August and September.

Question. What time did you go to Philadelphia?

Answer. I was backwards and forwards half a dozen times during the summer, between New York and Philadelphia and here.

Question. Do you know that Judge Watrous was there in 1850?

Answer. I was there, in the summer of 1850, with him. We were in New York and Philadelphia, and it was the subject of frequent conversations. He told me that he was interested.

Question, (by Mr. Chapman.) Did he say how he was interested?

Answer. I do not recollect. As I understood it, he purchased an interest. He considered the title perfectly good, and told me so.

Question, (by Mr. Clark.) Did he speak of the occupation of the land?

Answer. I do not remember.

Question. Did you make any inquiries whether portions of the land were held or not adversely?

Answer. I do not know that I thought of it.

Question. At what time did you have a conversation with Judge Hughes in reference to the subject?

Answer. I cannot give the date.

Question. How long afterwards?

Answer. I cannot say.

Question. After the suits were brought or before?

Answer. I cannot say. I do not know when the suits were brought.

Question. Where was it?

Answer. I think it was here, in this city.

Question. When?

Answer. I would say 1851, at a guess. I do not remember the year.

Question, (by the chairman.) Did Judge Watrous, in conversation with you in Philadelphia in the summer of 1850, speak in detail or in particular of the title or interest he had obtained by purchase in that Lapsley land?

Answer. He spoke of having purchased an interest there—to use his own language—that would make him wealthy.

Question. Did he then speak to you of the title of the land?

Answer. Yes, sir.

Question. Did he or not say whether he had examined the title to the land?

Answer. Yes, sir.

Question. Did he or not say whether he had examined the title, and knew that it was good, or did he express any doubts of it?

Answer. If I remember rightly, Judge Hughes examined the title. I think he said so. It has been a good many years ago. I had no interest in it. It was a casual conversation.

Question, (by Mr. Clark.) How came the conversation to occur between Judge Watrous and yourself?

Answer. We were speaking of Texas, and a great many things connected with it, and that came up incidentally. At what particular place, and on what particular day it occurred I cannot say.

Question. You were his personal friend?

Answer. Yes, sir; and he has been my personal friend for many years.

Question, (by Mr. Chapman.) In that conversation did he say, or intimate, that there would be any litigation?

Answer. I did not so understand it at all.

Question, (by Mr. Clark.) How was the conversation in relation to the suits, to which you have referred, introduced?

Answer. From my recollection it was this: Judge Watrous wanted it brought in the State court. That was his wish.

Question. How do you know he did?

Answer. What particularly impressed it upon my mind is this: \$200 were required to be handed over to Judge Hughes to go to Texas to bring the suit in the State court. I lent Judge Watrous \$200 to give Judge Hughes for that purpose.

Question. That was, that Judge Hughes should go back to Texas and bring the suit?

Answer. Yes, sir; that was my impression.

Question. Where was that?

Answer. Here, in Washington, in 1851.

Question. What was the haste about it?

Answer. The judge was going home, and the money was to be given to him to bring the suit in the State court. Judge Hughes also wanted a draft discounted to get \$250 for himself. I got it discounted at Chubb Brothers.

Question. Was the question of bringing the suits in the United States or in the State court discussed?

Answer. The reason why he wanted it brought in the State court was, that by reason of his interest he could not try it in the federal court, and he thought the case perfectly safe in the State court?

Question. What did Judge Hughes say to that?

Answer. I do not know. He went to Texas for the purpose of bringing the suit in the State court.

Question. Had there been any suits then brought in the United States court?

Answer. None that I knew anything of.

Question. Against whom was the suit to be brought?

Answer. I do not know that.

Question. You lent Judge Watrous two hundred dollars to give to Judge Hughes, to bring the suit in reference to these lands in the State court?

Answer. Yes, sir.

Question. Cannot you tell what time that conversation took place?

Answer. I was here half of the time, going backward and forward, between Texas and here on business. If it is necessary, I have no doubt the date can be ascertained pretty nearly, by a reference to the books of the Chubb Brothers.

Question. What object had Judge Watrous in having the suits brought in the State court?

Answer. For the reason I suppose that he could not try them in his own court, from the fact that he was interested. I do not remember all of the conversation.

Question. Was anything said about transferring the suits to another State?

Answer. I do not remember.

Question. Was anything said by either of them about the local prejudice affecting the suits?

Answer. I do not remember.

Question. You do not seem to remember any fact except that of lending two hundred dollars to Judge Watrous?

Answer. I lent it to him for the purpose I have stated.

Question. Was there any difference of opinion between Judge Watrous and Judge Hughes on the subject?

Answer. I do not remember.

Question. Were you present at any interview between Judge Watrous and Judge Hughes on the subject?

Answer. Not that I remember.

Question. All you know about it is, that two hundred dollars was required to bring the suit in the State court, which you lent Judge Watrous?

Answer. Yes, sir; I think Judge Hughes first spoke to me about it.

Question. What did he say to you?

Answer. He talked of the necessity of having money to bring the suit in the State court. Judge Watrous and I talked about it and I told him that I would lend him the money, and I did it.

Question. Did Judge Hughes say anything about the federal court?

Answer. I do not remember.

Question, (by Mr. Chapman.) Do you recollect where the conversation took place?

Answer. In one of the hotels. My impression is, that it was in the United Statets Hotel. Judge Hughes boarded there and very likely it took place in his room.

Question. Have you a distinct recollection of the land for which the suit was to be brought?

Answer. It was the Brazos land near Waco. I did not know then that Mr. Lapsley was in it. I never saw him until I saw him here.

Question, (by Mr. Billinghamst.) Did that conversation take place while a former committee of investigation was sitting?

Answer. That was in 1852, and I think it was before that.

Question, (by Mr. Clark.) Was it before or after the application for impeachment?

Answer. I think it was before.

WEDNESDAY, MAY 19, 1858.

James S. Holman.

Question, (by Mr. Chapman.) Have you made any reference to the books of Chubb Brothers, with a view of ascertaining the time when the negotiation to which you have referred in your former examination was made?

Answer. I went there yesterday. They told me that it must have been a sight draft; and that if so it was entered as cash, and no other account was kept of the draft. Judge Watrous has corrected me, stating that I made a mistake of a year, and that the conversation occurred in 1852. I said that it was in 1851 or 1852, I was not sure which. If it had been a draft on time, they could have looked it up.

Question. Have you any recollection of additional circumstances to impress the time upon your mind?

Answer. I have none.

Question, (by Mr. Billinghamst.) You say that Judge Watrous has refreshed your memory?

Answer. I asked him the question, and he replied that it was in 1852.

Question. Are you able to state that it was in that year independent of that statement by Judge Watrous?

Answer. No, sir.

Question. Did he state whether it was during the pendency of proceedings before a former Congress against him?

Answer. I do not think he did. We said but little about it. I determined not to talk to Judge Watrous about it, but to refer to the books of the bank. They could not find the draft for the reason I have stated.

Question. You have no certain recollection of your own of the time?

Answer. I have not.

J. S. HOLMAN.

EXAMINATION OF JOHN TAYLOR.

FRIDAY, MAY 14, 1858.

John Taylor, sworn.

Question, (by Mr. Clark.) Where do you reside?

Answer. Cherokee county, Texas.

Question. What is your business?

Answer. I practice law.

Question. Have you been a practitioner in Judge Watrous' court?

Answer. Yes, sir; but not very extensively. I have attended his court in Austin and in Galveston.

Question. Have you long been a practitioner in his court?

Answer. I think it is some five or six years since I first attended some suits in his court. I was engaged in a series of suits brought in that court against citizens of Limestone and Falls counties, Texas. I was engaged for the defendants. The suits were on titles which covered a considerable extent of land which was occupied by a great many people, and they employed me generally. I left my home very abruptly to come here, and I had no opportunity to refer to papers. It has been now some years since my attention was given to those cases. Haurick was the name of one of the plaintiffs. If I were to hear the name of the other plaintiff I would recollect it.

Question. Was it Lapsley?

Answer. That is it. I have been sick all winter, and my memory has been affected. Lapsley was the plaintiff in McClennan county, and Haurick was the plaintiff in Falls county. There may have been some defendants in adjoining counties, but the principal defendants in the Lapsley cases lived in McClennan county, and the principal defendants in the other cases lived in Falls county. I was counsel for the defendants in both cases.

Question. Do you recollect about what time you were retained in the Lapsley cases?

Answer. I was spoken to on the subject five or six years before the suits were brought by some persons interested in the title; but there was not a formal retainer in the cases by all the parties jointly until about the time the suits were brought.

Question. What was the question in dispute?

Answer. It was on a title to an eleven-league grant originally made to a Mexican, but which afterwards came into the possession of Mr. Lapsley.

Question. What representations were made by you when you were first spoken to on the subject of these suits?

Answer. I do not distinctly recollect now. Perhaps I might, if I could refer to papers. I cannot tell whether I was told that Lapsley was the owner or some one else. When the cases were transferred to New Orleans, having a very extensive and complicated business to attend to, I entirely lost sight of them. I do not recollect what was represented to me in regard to the matter. As to the ownership, however, I knew nothing except what I was told, or saw from some documents which were left with me. I had the original grant, and have it now amongst my papers.

Question. Was the title regarded as questionable?

Answer. It was so regarded by those who employed me. They believed that they had a good defence against Lapsley's title, and I filed a general defence in all the cases myself.

Question. Did you examine the title some few years before the suits were brought?

Answer. Yes, sir. I cannot say whether the original grant was then placed in my hands, or whether it was afterwards; but it has been in my possession for a long time. I cannot recollect the precise period I received it, but I am under the impression that it was furnished to me by Charles Duncan. He spoke to me on behalf of himself and others.

Question. Do you recollect the name of the grantee in the La Vega grant?

Answer. It was to La Vega.

Question. Do you recollect the power of attorney?

Answer. That was not in the title. I do not think any power of attorney was embodied in the title. If there was I do not now recollect it. There may have been, but I do not recollect it.

Question. Do you recollect in how many suits you appeared for the defence?

Answer. Not the precise number; in a great many, I know.

Question. Did you appear for all of the defendants at that time?

Answer. It was the understanding that I was employed by all those whose names appeared as defendants on the docket of that court.

Question. You were attorney of record as well as counsel?

Answer. We do not make any distinction.

Question. Do you recollect a suit against a man by the name of encer?

Answer. I do. He did not employ me. Spencer did not employ

me, and neither did Barnard. That had, until this moment, escaped my recollection. Barnard, I was told, had made an amicable arrangement with the plaintiffs. There may have been others, but my impression is that I filed a general defence in all the other cases in that court of this series.

Question. Does your memory enable you to give the date when those suits were commenced?

Answer. Not exactly. It was one or more terms previous to the court at which they were transferred.

Question. Did you attend the court for the purpose of taking care of these cases?

Answer. I went there specially for that purpose.

Question. Did you go there more than once for that purpose?

Answer. Yes, sir.

Question. Can you fix the dates when you went there?

Answer. I cannot fix the dates precisely.

Question. How many times did you go to Galveston for the purpose of taking care of these suits?

Answer. I recollect that I went twice. Whether I went oftener or not I cannot recollect. The first time I went there I filed the defence in the cases. At a subsequent term—whether the one immediately ensuing or not I cannot remember—I obtained an order transferring them, under an act of Congress which had been passed, to the court in Austin.

Question. Did you expect to try those suits in Texas?

Answer. That was my calculation when I was employed.

Question. When you put in the defence did you then expect to try the suits in Texas?

Answer. I did not know anything to the contrary.

Question. When you went on the next occasion, did you expect to try them?

Answer. I did ; but I did not then expect to try them at Galveston. The act of Congress assigned a certain portion of the State to the court at Austin. These suits were by defendants who lived within the limits prescribed for that court ; and as I learned that other cases similarly situated had been transferred, I went to Galveston with a full determination for their removal to and trial at Austin?

Question. Did you expect to try them at Austin?

Answer. I knew nothing to the contrary.

Question. What became of the suits?

Answer. I was not present when they were transferred to New Orleans, if they were transferred, but I was afterwards told that they had been transferred there. I was at Austin the same term they were transferred, if I am not mistaken. I think that it was the understanding that they should be transferred to New Orleans, and I did not pay any more attention to them, knowing that I could not follow them to that city.

Question. Why were the cases to go to New Orleans?

Answer. I never asked Judge Watrous the question myself, but have conversed with counsel about it.

Question. With whom?

Answer. I think I spoke with the opposing counsel.

Question. Who was that?

Answer. Judge Hughes.

Question. What reason did he give you?

Answer. I think it was understood that Judge Watrous had an interest in them, and that therefore they had to go out of his jurisdiction for trial. I cannot say positively that Judge Watrous made that statement to me, but I know that I ascertained to my entire satisfaction that the cases would not be tried in Austin. I then withdrew my attention from them. I think I consulted with Judge Hughes about them, and I think it was distinctly understood that we were to give ourselves no further trouble about them in Austin; but whether I ascertained from Judge Hughes or somebody else that there had been an order making the transfer, I do not recollect.

Question. Was the order made upon notice to you that they would be transferred?

Answer. I never had any notice given to me.

Question. Did you consent to their transfer to New Orleans?

Answer. I did not object to it. I knew that objection would be of no avail.

Question. To whose care did you transfer the suits?

Answer. I abandoned the suits, and left them to employ other counsel. My fees in the case were contingent, and I let them go too. I did not see all of the defendants. They did not trouble themselves to come to me on the matter, and I let them take their own course.

Question. Can you state at how early a period after the suits were commenced you first heard that Judge Watrous was disqualified from trying these suits?

Answer. I cannot state the precise time. I heard it spoken of at that term, and before the order was entered. I heard it spoken of by counsel; and if I mistake not Judge Hughes was one of them. It was a settled matter that the cases could not be tried there.

Question. Did you hear that Judge Watrous had any interest in the cases before they were transferred to Austin?

Answer. I do not recollect.

Question. Did you ever hear the judge in court disclose his interest?

Answer. I cannot be positive on that point; but, on reflection, I am under the impression that he did. I am rather inclined to think that Judge Watrous mentioned something of the kind.

Question. What is your best recollection on the subject?

Answer. I have not such a distinct recollection that I could speak with certainty.

Question. If you heard him make any statement in relation to his interest, where was it; at Galveston or Austin?

Answer. My first impression was, that, if I heard it, it was at Galveston.

Question. Did you ever prepare for the trial of the cases?

Answer. I did not make a full and complete preparation, because the evidence had never been taken so as to develop the merits of the

defence, and show what attitude it would assume in court. My defence would have rested on the evidence. I had filed a general defence, intending to take advantage of any circumstances which might invalidate the title.

Question. Did you examine the affirmative title of your own clients?

Answer. They had made locations and filed certificates.

Question. Head-right certificates?

Answer. Yes, sir; some of them. I do not know that all of them had. All that it was necessary to know was, what they were, and that surveys had been made after they had been filed in the land office. I ascertained that to be the fact in regard to a number of them. They had lived upon the lands and made improvements upon them; our reliance chiefly was on attacking the title of the plaintiffs.

Question. Do you remember whether you were in court at any time when these cases were called?

Answer. I think it is probable I was in court when they were called at Galveston; and may be I was, too, at Austin.

Question. On that occasion did the judge state whether he was disqualified or not from trying them?

Answer. I do not know what observation he made in regard to them.

Question. Did you hear of the judge's disqualification to try the cases at the time they were transferred to Austin?

Answer. As I stated before there is a faint impression in my mind that I had heard some suggestion of the kind at Galveston.

Question. Do you recollect of any negotiation having in view the procurement of some counsel to preside at the trial of these suits in the place of Judge Watrous?

Answer. I think that was spoken of in Austin.

Question. Between who?

Answer. I think that such a thing, perhaps, was suggested by opposite counsel; that if there was not a trial by consent, the cases would have to go to New Orleans.

Question. That was after it was known that the judge could not try the case?

Answer. Whatever I heard must have been at the time the transfer was made. I do not think that anything of that kind was agitated in Galveston.

Question. Were the cases delayed in Texas because of any negotiation of that description?

Answer. I do not know that there was any delay for that reason.

Question. Can you state positively whether you heard any suggestion of the substitution of counsel to try the cases in the place of the judge?

Answer. I cannot state positively what I heard in Galveston?

Question. Do you recollect the case of Cavazos *vs.* Stillman and others?

Answer. I do not; I was not concerned in it.

Question. Were you at the term of the court held at Galveston in January, 1852?

Answer. I cannot say ; I was there the term the suits were commenced, and the term when the order was made for transferring them to Austin, but I cannot state the year.

Question. When you went to the term of the court at which the cases were transferred to New Orleans, did you expect to try them?

Answer. At that time our evidence had not been taken, and on that account we could not try the cases ; and besides that, if I did not hear before I got to Austin, I understood very soon afterwards, that the cases would not be tried there, but transferred to New Orleans. I have a faint impression that I heard a suggestion of Judge Watrous' interest in court, but it is so faint that I cannot speak of it positively.

Question. Did you ever expect to try the cases at Austin?

Answer. I expected that the other parties would force me to a trial, and that I would be compelled to have the cases continued until our evidence was taken.

Question. When the cases went to Austin did you know of any disability on the part of the judge to try them?

Answer. I do not recollect. If I did it was of a vague kind, founded upon general rumor, or something of that kind ; I had no very definite understanding of it. I think that my impression was, that, when I went to Austin if the other party undertook to force the cases upon me for trial, I would be compelled to make a showing for a continuance until I could get my evidence. I think that I was prepared with affidavits for a continuance.

Question. Could you have continued the cases as a matter of course?

Answer. We could have shown good cause for continuance ; we had not been able to get our evidence.

Question. Were you counsel in the case of Ufford vs. Dyches?

Answer. I recollect that Dyches did not employ me when he was sued by Haurick, if he was sued. He was of the parties defendants, for nearly all of whom I appeared.

Question. Did you try any of these cases?

Answer. I did not.

Question. What became of them?

Answer. I have not understood distinctly what has become of them?

WEDNESDAY, MAY 19, 1858.

Examination of John Taylor continued.

Question, (by Mr. Billinghamst.) When did you first hear of Judge Watrous' interest or disqualification in the Lapsley suits?

Answer. it was at Austin, I think at the term at which they were removed to New Orleans to be tried.

Question. Were you at the term at Austin the year before the cases were removed to New Orleans?

Answer. I think there was one term which I attended there before the order of transfer was made. I think I attended on account of one

or two other series of cases of a similar character at the preceding term.

Question. What was done in the Lapsley cases at the term preceding their removal to New Orleans?

Answer. If I am not mistaken in supposing that I attended the preceding term, the cases were continued.

Question. Were they continued by agreement, or by order of the court?

Answer. I think I made a showing for the cases in which I was concerned.

Question. At that term at which they were continued did you know anything of Judge Watrous' interest?

Answer. I do not recollect that I did.

Question. Was there any negotiation at this first term in Austin between counsel in the cases as to the substitution of a lawyer in the place of Judge Watrous to try the case?

Answer. I do not now recollect.

Question, (by the chairman.) Was there at either term?

Answer. At the next succeeding term, when an order was made to transfer the case to New Orleans, Judge Hughes, if I am not mistaken, made the proposition to me, and I refused to concur in it.

Question, (by Mr. Billingham.) Prior to that time had you any negotiation with Judge Hughes in that respect?

Answer. I think not.

Question. Neither at Austin nor Galveston?

Answer. I do not recollect of any. If there was, I have no recollection of it.

Question. Is it likely that you would forget a matter of that kind?

Answer. I do not think I would. There are a number of circumstances which induce me to think that I could not possibly have had a knowledge of it, and which are as conclusive to my mind, and, perhaps, more so, than my abstract recollection of the fact.

Question. You may state the circumstances?

Answer. One was, that I came up to Austin that term at which they were transferred to New Orleans, with the expectation that the opposite party would be seeking a trial, and that I would be compelled to make a showing for a continuance; and I did make a showing for a continuance at the first term, if I am not mistaken as to my being there at the preceding term. I could not have gone there with that expectation if I had known that the judge was interested, and could not try the cases. I could have entertained no expectation of the kind.

Question. Where did you reside?

Answer. I reside in Cherokee county, nearly 200 miles this side of Austin.

Question. What are the other circumstances you refer to?

Answer. Another circumstance is, that when I went to Galveston at that term, when I got the order for transferring the cases to Austin, I did so with the view of placing them in a court where I thought they could be legally tried. I presented the motion to the court, and

argued it partially ; but the court stopped me before I got through my argument. I took the ground that I conceived the act of Congress was peremptory, and left no discretion in the court. The transfer of the cases to Austin was a right which I demanded. I could not conceive when the act of Congress, or the rule and practice of the court under that act, had chalked out certain territorial limits within which, if the defendants resided, the cases were to be tried, in one instance in Austin and in another in Galveston, why they should be tried, indiscriminately, either in one court or the other. I held that they could be legally tried only in the court to which, under that regulation, they properly belonged ; and my object in making the motion was to have the cases transferred to where they could be legally tried. I could not have had that in view had I known that the judge was interested, and that the cases could not be tried either in Galveston or Austin.

Question. You say you had progressed in the argument when you were stopped ?

Answer. Yes ; the court granted the order before I had got half through my argument. He stopped me by saying that he had made the order transferring the cases.

Question. Were you arguing for the defendants in the cases wherein Lapsley was plaintiff ?

Answer. Yes ; that is my recollection of it. There was another series of cases in Limestone county, and in my evidence the other day I blended the two together. It has occurred to my mind, in reflecting on the matter, that if Judge Watrous had announced in Galveston that he was interested in these cases, or if it had come to my knowledge previously to getting the order transferring them to Austin, in such a manner as to make it authoritative and satisfactory to my mind that he could not try the cases there, I do not think that I could have made the motion and carried up the cases distinctly with that view ; because I would have believed, if I had argued the motion on the ground that I wanted the cases transferred to where they could be legally tried, that he would have apprized me of the fact of his not being authorized to try them either at Austin or Galveston.

Question, (by Mr. Chapman.) Do you know whether preparations were made by the opposite party to try the cases at Austin ?

Answer. I do not know what course was taken by the opposite counsel. My recollection is, that they announced to me, at Austin, that they were willing to try it there if we could agree upon a judge ; and I am very well satisfied that I refused to concur in that arrangement, because I did not believe it to be a legal course of proceeding, or that it was authorized or sanctioned by the laws in force.

Question. Before this proposition came to you to refer the cases to a member of the bar, were there any steps taken, within your knowledge, by the opposite party towards a trial of the cases before Judge Watrous either at Galveston or Austin ?

Answer. There was no other judge. I think it was the second term after their transfer to Austin, that they were transferred to New

Orleans. At the first term that I went to Austin, I was driven to the necessity of making a showing for a continuance. I do not know whether it was a feigned declaration of their condition or whether they really were prepared to try the cases or not.

Question. You say you were driven to make a showing—by what steps?

Answer. I was called upon to announce whether I was ready for trial.

Question. Before Judge Watrous?

Answer. Yes; and I announced I was not.

Question, (by Mr. Billinghamst.) How far is your residence from Galveston?

Answer. Between 250 and 300 miles, I think.

Question. And about 200 miles from Austin?

Answer. Somewhere in the neighborhood of 200 miles from Austin.

Question. At the time you went to Galveston had you a personal acquaintance with Judge Watrous outside your professional acquaintance?

Answer. Yes.

Question. Did you call upon him while there out of court?

Answer. I think I probably saw him at his boarding house for a few minutes.

Question. Were these cases in which Lapsley was plaintiff the inducement for you to go to Galveston?

Answer. Yes; the principal inducement.

Question. When you saw the judge at Galveston, as an acquaintance, did he speak to you of any interest that he had in these cases?

Answer. I have no recollection of it.

Question. Do you recollect that you had any other business at that court in Galveston?

Answer. Yes; I had one or two other series of cases of the same description, founded on the eleven-league titles, in Limestone and Falls counties.

Question, (by the chairman.) Do you recollect which term of court it was at which you first appeared in these cases at Galveston?

Answer. It was at the return term, when I filed the general issue.

Question. At what term was it you got the order of transfer?

Answer. It was at a subsequent term, but whether at the next succeeding term or not I cannot be positive.

Question. Do you recollect any agreement that was made, or was there any agreement made, between yourself and Judge Hughes, at either of the terms at Galveston for the transfer of these cases to Austin?

Answer. I do not think there was or could have been, because I relied entirely on my motion, filed the motion regularly and formally; and argued it, and put myself entirely on the ground that I had a right to have a transfer. I took that ground exclusively and did not look at anything else, as the ground on which the transfer took place.

Question. I understand you then to say that you heard nothing of

the interest of Judge Watrous in the cases, either at Galveston or Austin, until the term at which they were transferred to New Orleans?

Answer. No, sir; I do not recollect that I did. If there was any announcement of Judge Watrous' interest in the suits previously to that time, it must have been in my absence, or I must have forgotten it at that time, and I do not conceive it possible to have forgotten it in so short a period of time.

Question, (by Mr. Cushing.) For what defendants did you have your name entered as attorney at the return term? Please state the name of each defendant?

Answer. I cannot possibly do that. I can now recollect but a few of their names. I appeared for all the defendants in the cases, except Barnard and Spencer. I was employed generally by these defendants, but I know that Barnard and Spencer did not employ me.

Question. As you were not employed for Barnard or Spencer, be good enough to state the name of any one defendant for whom you were employed?

Answer. I was employed for several of the Bartons. I was employed by Mr. Dunn, whose case afterwards went on to New Orleans; I afterwards rescinded my agreement with him. I was counsel for Mr. Hetherington, for Mr. Brown, and for a great many others; I do not now recollect them all.

Question. State all you recollect?

Answer. I might, on reflection, remember more.

Question. Which of these cases was the first entered in order on the calendar of the court?

Answer. I cannot recollect.

Question. Did you put in pleas in all these cases?

Answer. I think I filed the general issue in all the cases where I was concerned.

Question. Do you recollect distinctly filing pleas in any one of these cases by name; if so, in which?

Answer. In the cases I have named I pleaded the general issue, if I recollect right.

Question. Can you state that you filed the pleas in any one of the cases specifically by name?

Answer. I know that I put in the general issue for all my clients, and those persons I have named were among the others, I think.

Question. Did you put in any other plea than the general issue in any of the cases; and, if so, in which?

Answer. I do not think I did, I was waiting for a subsequent term of the court, and I think that during the progress of the business I took leave to amend with a view of putting in more special defences, on the ground of location on the land, and for some of them holding patents for it; Mr. Dunn, I think, claimed under a patent, and I took leave to amend, with a view of introducing subsequently special pleas.

Question. In Dunn's cases?

Answer. In all of them I intended to file special defences showing the merits of the claims of the defendants either as settlers, or lo-

cators, or patent holders on the land. I intended to have the benefit of this as well as of the objections that we took to the intrinsic defects of the plaintiff's title, but I do not think that I ever in pursuance of that calculation actually filed such special pleas.

Question. In any case?

Answer. I do not think I did. If I did I do not recollect it.

Question. Were you instructed by the Bartons in order to have a special defence for them?

Answer. Yes.

Question. What was the defence?

Answer. The location of the land.

Question. Did you at any time file a plea in their behalf of defence under location?

Answer. I do not think I filed any special defence in any of the cases. I was deferring it, intending to do so in the progress of the cases, as we have a right at any time before the case going to trial, to file amendments.

Question. Did you file a written motion in any of the cases; and, if so, in which?

Answer. We do not do that to get leave to amend. My motion to transfer the case to Austin may have been *ore tenus*. I do not recollect precisely how it was, but at all events it was a regular motion.

Question. Was there or not a written motion?

Answer. I believe there was, but I do not know positively.

Question. In which of the cases was that written motion filed?

Answer. It embraced the whole of them.

Question. Did it embrace the whole of them in one motion, or did you make separate motions?

Answer. It embraced the whole in one single motion.

Question. And was applicable to all the motions?

Answer. Yes.

Question. At what term, and on what day of the term, was this motion filed?

Answer. I think I have stated several times in regard to that. It was either the next term after the return term, on some subsequent term, which I cannot be positive, and I do not recollect the year.

Question. Do you recollect whether it was at the return term, or at some subsequent term?

Answer. It was not at the return term.

Question. If it was at some subsequent term, at which of the subsequent terms was it?

Answer. I cannot say positively whether it was at the next term succeeding the return term, but of course it was at a term subsequent to the return of the writs.

Question. Who was present in court when you argued the motion for the transfer of the cases?

Answer. I do not know; I think the clerk was there.

Question. What clerk?

Answer. The clerk of the court.

Question. Please state his name.

Answer. I do not recollect now positively who the clerk was, but I think my motion affected some claim which he himself had in the matter. I think I sought to exonerate my clients from any liability to costs, as well as to transfer the cases.

Question. What counsel participated with you in the argument on that motion to transfer?

Answer. I do not recollect that any counsel did. Whether Judge Hughes was present or not I don't know. He may have been, or he may not have been, or he may have been only a portion of the time, but I do not recollect that any opposition was made to it by counsel.

Question. Do you recollect arguing any motion about costs in that case, or in either of these cases?

Answer. I have stated all I recollect in regard to it.

Question. Please to state that specifically?

Answer. I cannot state it any more specifically than I have stated it. I am inclined to think that the clerk had annexed a kind of condition to the transfer of the cases in regard to the payment of costs, or something. There was some liability for costs sought to be imposed upon the parties, and my object was to relieve them of that, and I think I succeeded in that as well as the others.

Question. Can you state positively that you argued any question except that question of costs?

Answer. Most undoubtedly so. The main object of my motion and of my argument was to have the cases transferred to Austin, and the other followed as a matter of course. I may have connected the two points together, but the main object was the transfer of the suits. The other was merely incidental. I contended that the transfer was an absolute right, and not a matter of discretion in the court; a right which they could exercise without being subjected to any onerous conditions; a right given them under act of Congress, and I think the court sustained me in that ground. There may have been some order previously made. I think the clerk mentioned to me yesterday that there had been an order previously made, but it was connected with the payment of costs. I contended that my clients were not bound to pay costs; that the right was absolute, and could not be subjected to any conditions at all. I contended that the judge was under the necessity of having these cases transferred to the court to which they rightfully belonged.

Question. It being a matter of absolute legal right, and not being opposed by any counsel, what occasion had you elaborately to argue that question to the court?

Answer. I did not elaborately argue it.

Question. What occasion had you to argue that question to the court?

Answer. I did not know whether the court would grant it without an argument. The motion was taken up, and I proceeded to present my views to the court, and in a few minutes the court stopped me, and made the order.

Question. Was the order made in reference specifically to the Lapsley cases?

Answer. I do not recollect now how that was. I am rather under the impression that one series of cases remained there, in which there was afterwards a judgment by default. I withdrew entirely from the cases, but I rather think that the cases of Falls county were some how or other passed over. The reason of it I cannot now state. I do not know whether the order was exclusively in regard to these Lapsley cases, or to them in connexion with others.

Question. In saying that the Falls county cases were passed over, do you mean to be understood that all other cases of a given class were transferred? did not the question of transfer apply to classes of cases to which the terms of the law applied?

Answer. It applied to whatever case came within the purview of the act of Congress. I made the motion to transfer these cases; but whether other cases were connected with the motion I cannot state.

Question. Can you state that other cases were not embraced in the motion?

Answer. I cannot recollect how the fact was in regard to it.

Question. Can you state it was not a general order to transfer all the cases that came within the purview of the law?

Answer. I do not know.

Question. I mean the order for the transfer to Austin?

Answer. There may have been some other order made by the court; I do not know what the terms of the order were which I succeeded in getting in my cases, and I gave myself no concern about other cases being affected by it.

Question. Was there a special order for the transfer of the Lapsley cases as distinguished from other cases?

Answer. I did not examine the minutes of the court, and do not know precisely the terms in which the order was entered up. All I wanted to know was that I got my cases to Austin. What the precise phraseology of the order was I do not know.

Question. You say you were rather pressed to file that motion for continuance; by whom were you pressed?

Answer. It was nothing more than the ordinary proceeding; the docket is called and each party is called on to announce whether he is ready for trial. When I announced that I was not, I made a motion for continuance. I do not mean that there was any compulsion, it was nothing but the ordinary proceeding.

Question. What counsel of the plaintiff was in court at the time when that incident occurred?

Answer. I do not recollect whether any of the opposing counsel were present, but the house was full of people.

Question. Who was the clerk officiating at that time?

Answer. I do not recollect now; I rather think it was a gentleman that lives in Austin, but I forget his name.

Question. Can you state the name of any counsel who was present, in court on any of the occasions when you either filed a plea or a motion, or made an argument in either of the cases?

Answer. I think Judge Hughes was occasionally in the court, attending the court regularly, both in Austin and in Galveston.

Question. Was he present on either of the occasions when you filed any motion or made any argument in court?

Answer. I have not spoken of any motion except the one to remove the cases to Austin; that is the only motion or argument I spoke of, and I think I stated that I could not tell whether Judge Hughes was there or not; I am under the impression that he was there at the time I made the argument.

Question. Is it usual in practice to make motions or argument without the presence of the counsel on the other side?

Answer. It is usual for counsel on both sides to be present when the cases are called, but these cases were not called up regularly for trial, and were not expected to be called up either by the other counsel or myself. It was understood that they would go to Austin, and it was nothing more than an *ex parte* proceeding on my part to have them put in regular form for that purpose.

Question. How and between whom was that understood at Austin?

Answer. I suppose by everybody. It was known what the act of Congress was, and I think that the court, before I made my motion, had taken some action with a view to cases of that description. There was something in the proceeding which did not suit my views, and my object was to have them transferred on what I thought legal and proper grounds. The obstacle was, if I am not mistaken, some condition annexed to them in regard to costs. I am rather inclined to think that there was a general order made by the court previously to that time. The clerk mentioned to me yesterday, that there were some conditions annexed with regard to costs, and that I interfered with his arrangements and kept him out of his costs. I wanted the order made in the way that I conceived the act of Congress authorized and required it. I wanted to have it peremptory and free from all conditions.

Question, (by Mr. Craige.) Do you know whether there was a difficulty about the persons who were to carry the papers from Galveston to Austin; whether that was the difficulty?

Answer. I don't know.

Question, (by Mr. Clark.) Do you mean to say that the clerk sought to impose some condition touching his fees, and that you felt constrained to apply to the court against the terms which he interposed?

Answer. I did not examine the order at all, but the best of my recollection now is, that it was in some way connected with a previous order entered up by the court on the subject, which order entitled the clerk to costs, and I think I wanted to relieve my clients from these costs, and, as I stated, I contended that the act of Congress gave an absolute right, and I claimed the exercise of that right free from all conditions. I did not want to have any contingency or uncertainty about it, but that the case should go up free from every incumbrance, because I considered that under the act of Congress it could only be legally and properly tried in Austin.

Question, (by Mr. Chapman.) Did Judge Watrous make any order or decree in regard to costs?

Answer. If I am correct in supposing that any payment of costs

was attached as a condition previously, my cases were afterwards exempted from the costs.

Question. Did Judge Watrous make any order or decree in relation to costs?

Answer. He granted my motion, which gave me the right to transfer the cases without complying with any condition.

Question, (by Mr. Clark.) Do you know whether Judge Watrous had made any order for the imposition of the costs, in respect of which you subsequently applied to him?

Answer. This is what I am now speaking of. If there was a previous order, (and my best recollection is that there was a general order made previously,) my clients were subjected to the payment of costs before they could get their cases to Austin. I sought to exonerate them from that, and did exonerate them.

Question. What did the judge say touching that previous order?

Answer. There was no remark made any more than that the court did not wish to hear any further discussion from me on the subject, but granted the order in the way I wanted it. I wanted to be certain that my cases would go up, and without my clients being subjected to any incumbrance. These were the two points I had in view in my mind in the proceeding.

Question, (by Mr. Cushing.) Were you counsel in the case of Ufford and Dykes at any time?

Answer. I do not recollect that I was. I do not think I was ever counsel for either Ufford or Dykes.

Question. Have you any knowledge of the case of Ufford against Dykes?

Answer. I never was informed with regard to any such case. I may have heard it transiently by way of mere rumor, but I never informed myself about the case, and had no connexion or interest with it at all.

Question. You spoke of two other classes of cases in which you were counsel, please to state the names of any of those parties in those cases?

Answer. There was a suit brought on an eleven-league title against a great number of settlers living in Limestone county. John Henry was one of the defendants. I could, on reflection, recollect a good many of them; but I do not recollect now. The other series of cases was from Falls county. There were some of the Bartons concerned in these cases, if I am not mistaken. There were Bartons living in both counties, both in McLennan and Falls county. Some of the Morgans were concerned in the case in Falls county, and a man named Church and a man named Adams. There were a great many cases.

Question. Do you recollect the name of the plaintiff in either of the two classes of cases which you refer to?

Answer. I think Mr. Henrick was the plaintiff in the case in Falls county.

Question, (by Mr. Clark.) When did you first become apprized that any costs were to be exacted from the defendant in respect of the orders for the removal of the cases to Austin?

Answer. All I know with regard to the costs I came to the knowledge of at that term of the court when I got the order of transfer to Austin. I then was informed of it. I had forgotten that matter of the costs till the other day, when the clerk here mentioned to me that I had cut him out of his costs in the cases by the proceedings which I took.

Question. Will you inform me from whom you derived that information?

Answer. I have no knowledge of anything more than that, from the examination of the condition of my cases in court, I ascertained that they could not go up without the payment of costs.

Question. Did you refer to the minutes of the court to see whether any such conditions were embraced in the order for removal?

Answer. I have no particular recollection of having inspected the minutes of the court. That, however, was not the main object of the motion; it may have come in incidentally. I found that my cases had not gone up; that they were still lagging behind, and my object was to get a peremptory and absolute order made, to take them up free from all conditions. Whether I may have ascertained that the matter of costs stood in the way, I cannot now distinctly recollect.

Question. Have you any knowledge whether Judge Watrous had, previously to your application to him, ordered or consented to the condition as to the imposition of costs?

Answer. My understanding of it was that it was a part of the order; I did not look at the order.

Question. The point of my inquiry is to ascertain whether it was a part of the general order, or whether it was an addendum of the clerk?

Answer. I cannot say positively how that was.

Question, (by Mr. Chapman.) Did Judge Watrous throw any obstacle in the way of the removal of the cases to Austin?

Answer. My best recollection is, that the order was entered in such a shape as that my clients could command the removal of the cases, but that whatever had been done before had left matters in such a condition as that my clients could not control their cases.

Question. Did Judge Watrous merely assent to your suggestions?

Answer. I had proceeded with my remarks but a few minutes when the judge told me he did not wish me to discuss the case any further, and my application was granted. They were removed without any obstacle, and my clients had no difficulty afterwards.

Question. Do you know who paid or became liable for any of the clerk's fees or expenses consequent on the order for the removal of the cases, or on making out the transcripts?

Answer. I do not know; I did not take it particularly under my own charge to transfer the cases, and I do not know that my clients did. The cases went up, but through what particular medium I cannot distinctly recollect.

Question. Do you recollect the amount of costs imposed, in respect of which you made your *ex parte* appeal to the court?

Answer. I do not recollect, only that I heard some of the parties speaking of the amount of costs.

Question. What amount was named?

Answer. I think some of the parties named \$50 in each case. In the docketing of them they were entered as separate cases.

Question. Do you mean to say that \$50 was imposed as the costs of each case, on their removal to Austin?

Answer. That is what some of the parties mentioned to me. I did not examine into it, and was not particularly concerned in the matter; but some of them complained to me about it.

Question. To whom do you refer when you speak of the parties?

Answer. I mean my clients; but which of them I cannot distinctly recollect.

Question. Did you communicate to the court the information which you had received from your clients, as to the amount of the costs imposed by the clerk as the condition of the transfer?

Answer. No, sir; I do not think I mentioned to the court anything about any particular amount of costs, or any particular complaints of my clients. I only wanted to get the obstacle removed.

Question, (by Mr. Craige.) Do I understand you to say that, after you commenced the argument in regard to the costs, the court stopped you?

Answer. Not with regard to the costs; that was a mere incidental matter. The object of my argument was to secure the absolute transfer of the cases without impediment, so that my clients might be able to control them, and neither the clerk or any one else stand in the way.

Question, (by Mr. Clark.) Was there any other impediment than the costs of which you speak?

Answer. I do not know of any other; and my impression now is, that that was an obstacle which would subject my clients to a very considerable burden, in having to pay what was equivalent to the costs of a regular suit; and my impression is, that the right to claim the costs was either embodied in the previous general order, or the order was entered in such terms as to authorize the clerk to claim them.

Question. Can you state any fact or circumstance which will tend to show whether Judge Watrous had or had not knowledge of the design of the clerk, or of the wish of the clerk to exact the payment of any such costs?

Answer. I do not know what Judge Watrous had a knowledge of; my best recollection now is, that I considered the matter as growing out of the previous general order; if not expressly, at least that was the construction of it.

Question, (by the chairman.) You spoke of a previous general order which you understood had been made; were you present when such order was made?

Answer. I do not think I was; I think I was informed of it. I think that when I made the application it was suggested in open court, if not by the judge, by counsel, or somebody, that there was a general order; but still I found that my clients had not the benefit

of them. I think it was suggested, in court, that a general order was already entered on the minutes of the court.

Question, (by Mr. Clark.) Did I understand you to say, that you did not examine the minutes of the court with a view to ascertain whether any order on the subject of fees of officers of the court, in respect of the transfers, had been made?

Answer. I do not now recollect that I did make an inspection of the minutes of the court. At all events, my clients had satisfied me that they could not have the benefit of the order without difficulty, and I may have considered, from what I heard of the matter, that there was no necessity for me going to the minutes of the court. I saw that the cases had not been transferred, and I saw no prospect of their being transferred.

Question, (by Mr. Clark.) Do you recollect a case entitled *Lapsley vs. Mitchell & Warren*?

Answer. That was one of the series of cases.

Question. Do you recollect making a motion in that case that James Dunn be made a party defendant?

Answer. I think I did.

Question. Be good enough to look at the following order in the minute book of the court for the January term of 1852: "It is ordered that all cases, the defendants in which reside in any other district, may be removed to the district in which such defendant or defendants reside, upon application made to the clerk of this court by any of the parties, and the payment of all fees due to the officers of the court."

[NOTE.—In the original minute book the word "costs" had been written after the word "all," and appears erased.]

Answer. My first impression was that it was embodied in the order, but I did not like to be positive; but this is exactly what I supposed to be the fact as to the general order.

Question. Was not your application to the court an appeal from that part of this order which imposed the payment of costs as a condition precedent to the removal of the cases?

Answer. That was one of the objects. I considered that merely incidental to the peremptory order which I asked of the court to transfer to Austin.

Question. Do you know whether any one of the defendants in the *Lapsley* cases paid any costs consequent on their removal to Austin?

Answer. I do not know; I rather think they did not. I think they waited for me to get their rights properly protected in that respect.

Question, (by Mr. Billingham.) Do you recollect on what day of the term it was that you moved that Dunn be made a party in the case of *Lapsley vs. Mitchell & Warren*?

Answer. I cannot recollect the date.

Question. Look on the record and see the first order entered, on the second day of the term, on your motion that Dunn be made a party defendant in the case of *Mitchell & Warren*, which entry is crossed with the word "error." What do you know about its being marked erroneous?

Answer. I have no knowledge of it. This is the first time I ever knew of that error there.

Question. Was that order vacated, to your knowledge?

Answer. This is the first I know of its ever being varied, changed, altered, or abolished.

Question. Was your motion granted that Dunn be made a party defendant?

Answer. I think most undoubtedly it was; because I afterwards prosecuted the defence in the name of Dunn entirely.

Question. Was it made on your application to the court by the court, or was it made by agreement between counsel?

Answer. I have no recollection of any agreement at all. If there was any, I do not recollect anything of it. It was in the ordinary and regular course of proceedings that Mr. Dunn was made a party.

Question. Did you present any petition for this intervention of Dunn?

Answer. I do not think it was required. Our proceedings in matters of that kind are generally *ore tenus*, and formal petitions are not generally filed.

Question, (by Mr. Clark.) Would an order for the intervention of a third party be made, except on proof of his interest in the subject-matter of the suit, or without the consent of the adverse party?

Answer. Sometimes orders of that kind are made on mere *ex parte* application of the parties. There is no very definite or established rule on the subject. If there is any doubt on the propriety of making parties, the court may require a sufficient showing; but generally there is no difficulty, and it is almost a matter of course.

Question. What did you state to the court as to the facts on which you based your application that Dunn be made an intervening party?

Answer. I knew I had Dunn's title papers with me, and if I did not show them to the court, I must have apprized the court that it was in my power to do so, and that I could show by regular documents that he was the person who held the title to the lands.

Question. According to the usage of that court would such an order be made against the plaintiff on an *ex parte* application of the defendant's counsel, except a consent had been previously given?

Answer. I do not know what the particular practice of the court is in that respect. My understanding has always been that that is the practice of the State courts, and the practice of the State court is the practice of the federal court. Generally when such an application is made the opposite counsel is required to be present to hear the application, and if it is objected to, and the right contested, the court will require a regular showing.

Question. In this particular case do you recollect how you accounted for the non-appearance of the plaintiff's counsel, when you made your application that Dunn be made a party?

Answer. I do not know whether the counsel for the opposite party was present or not, I have no distinct recollection of that fact one way or the other; but I know that Dunn was made a party. Under what particular circumstances the order was granted I do not recollect; but I know that I regularly obtained an order, and proceeded

with the defence of Dunn, until I finally abandoned the case on its being transferred to New Orleans.

Question, (by Mr. Billinghamurst.) And that order was not obtained by the agreement of counsel?

Answer. I have no recollection of it.

Question, (by Mr. Chapman.) On reference to the minutes of the court for the January term, in the case of Ufford and Dykes, I find the following entry: "It appearing to the court that the defendants in the case reside within the limits assigned to the branch of the district court of the United States, on motion of said defendants by their attorney John Taylor, esq., ordered, that this case be transferred to the branch of the said court at Austin." I understand you to say you were not counsel in that case?

Answer. I have no recollection of being employed by Dykes; there must be an error in that.

Question, (by Mr. Billinghamurst,) Have you ever been employed by Hanrick?

Answer. He was the plaintiff in these cases which I defended. I was employed against him.

Question, (by the chairman.) Were you ever employed by Ufford?

Answer. I have no recollection of Ufford or Dykes employing me.

Question, (by Mr. Billinghamurst.) Do you recollect being employed by anybody in a case in which Ufford was plaintiff and Dykes defendant?

Answer. I do not. How that entry could have been made I do not know.

Question, (by Mr. Chapman.) Were you counsel for Mr. Barton?

Answer. Yes, sir.

Question. I find this entry made on the minute book for the January term, 1852: "This day, came the parties aforesaid by their attorneys, and thereupon, the judge presiding, having stated that he could not sit in this cause, by reason of a personal interest, and of an interest of persons with whom he is connected by blood, in a part of the subject matter in contest, the said parties, by their attorneys, agree that this suit be removed and transferred for trial to the district of Austin. And further, it is agreed that the continuances and all other orders heretofore made in this case be corrected, so as to read as made by consent of parties and not by the order of the court."

Question. I understood you to say that you did not recollect hearing of Judge Watrous' interest previously to the removing of the cases from Austin to New Orleans?

Answer. I have no recollection of it. I do not think that that was the direction under which my cases went up. I know that I applied, as a matter of right, under the act of Congress, and I think my motion was sustained. I found my cases afterwards in Austin, and I considered them as having gone there under the order made for that purpose. I have no recollection of their having gone there by virtue of any agreement.

Question. Have you any recollection of having seen these entries at any time?

Answer. No, sir ; I was not in the habit of examining the minutes of the court.

Question, (by Mr. Billingham.) In your examination last week, did you state anything about your having heard at Galveston of Judge Watrous' interest in the cases?

Answer. I stated that there was a faint recollection on my mind ; but I have stated in my examination to-day pretty fully what I thought about that ; that, from the circumstances, I thought I could have heard nothing there of any interest he had. If I heard anything there, it could only have been as to some matter of affinity with the parties ; and I do not know how that was. However, I had come to the conclusion, on reflecting on all the circumstances, that there was nothing in my mind at that time which presented any obstacle to the trial of the cases at Austin ; and I went up there with a full expectation that they would be tried there before Judge Watrous.

Question, (by Mr. Clark.) Was Mr. Barton in any way related to Judge Watrous by blood?

Answer. I do not know of any relationship between them.

THURSDAY, MAY 20, 1858.

Explanation of testimony of John Taylor.

Question, (by the chairman.) You stated that you wished to make an explanation of your testimony. You may now proceed to do so.

Answer. I have thought it due to myself, as well as to the investigation, that I should make this explanation and some corrections of my previous statements on several points, from suggestions made to my mind by an examination of the record of proceedings in Judge Watrous' court, which I inspected yesterday, after my first and second examination, as well as from more mature reflection and a more mature recollection of the facts and circumstances.

I see from this record that there were several entries made, or which purport to have been made, about the time, and which, I suppose, were made about the time that I made the motion to transfer these cases to Austin. The entry made in the case of Hendrick *vs.* The settlers in Falls county, is one of the entries to which I refer. The entry made in the case of Jacobs *vs.* The settlers in the county of Limestone is another ; and another is the entry in the case of Ufford *vs.* Dykes. These entries, I discover, were peremptory for the removal of the cases to Austin without any condition or qualification. That was the thing which my motion proposed attaining.

I observe, in the examination of this record book, that there is no similar entry there in respect to the Lapsley cases ; but in these Lapsley cases I see entries in which it is suggested that Judge Watrous' personal interest in the subject-matter in controversy, as well as the relation in which he stood by consanguinity to persons who are interested in the title, disqualified him from sitting in the cases. There was no similar entry, that I could find, in the Lapsley cases. That in the Lapsley cases was of a different character altogether.

I see no such entries made as I find in the other series of cases. From that state of the record, I think it possible, though not probable, that the motion which I made to remove the cases to Austin (which probably was a written motion filed in the case) did not expressly include the Lapsley cases, or was not entitled and filed in the Lapsley cases. That can be ascertained from an inspection of the motion itself. I do not know what the fact really is with regard to it; but if the fact is so that that motion did not expressly include the Lapsley cases, and was not in terms filed in the Lapsley cases, then the statement made to the committee in that particular was made under a misapprehension. My statement is, that the application was made according to what that written motion (if it was a written motion) purports to be on the face of it, and in the case in which it purports to have been made. I made my statement to the committee under the fullest impression, in fact under the clearest conviction, that I had filed that motion in the Lapsley cases, and that it was entitled and filed in the Lapsley cases, because I wished them, as well as the others, removed to Austin, for it happened that all the cases I had in that court fell within the jurisdiction or territorial limits marked out for the court of Austin. I was clearly under that impression, and had that conviction in giving my statement to the committee, because I knew I was there for the purpose of moving all my cases to Austin; and that motion was the medium on which, and on which alone, I relied for that purpose. I had the same reason for making use of it in the Lapsley cases as in the other cases. For that reason, as well as from what I thought I recollected of the fact, I was thoroughly convinced that I had made the motion in the Lapsley cases, and I am inclined to think it will still turn out so on examination of the motion.

From my best recollection of the matter, and from the best conclusion my mind can arrive at with regard to it, I think now that I did not, and could not, in making that motion, have made the Lapsley cases an exception, and left them out of the motion. I think that I did not make an exception in the Lapsley cases, or leave them out of my motion, on the ground that Judge Watrous had an interest in the subject-matter, and could not sit as judge to try the cases, as seems to be surmised by these entries made in the Lapsley cases. The removal of them to Austin would not have obviated the difficulty, because there would have been the same disqualification of Judge Watrous to try the cases in Austin as in Galveston. It appears to me that suggesting that as a reason for removing the cases to Austin is rather a contradiction, because the same disqualification would have existed in both courts.

FRIDAY, MAY 21, 1858.

Explanation of testimony by John Taylor.

WITNESS. I wish to make this additional explanation of my statement. I cannot ascertain from the record that there was any entry

made in the Lapsley cases similar to what I find made in the other series of cases in which I was employed, (three of them.) It might be inferred from that circumstance that the written motion which I made did not expressly embrace the Lapsley cases, or was entitled and filed in the Lapsley cases. If that be the fact, I wish my statement corrected in this way: that I was in some degree under a misapprehension in that particular; although my intention all the time was to state what appeared on the face of that paper, or what coincided with what appeared on the face of that paper. But if they do not appear on the face of that paper to have been embraced, then I was in some degree under a misapprehension in not stating it to the committee distinctly. But if it does not appear that they were in that paper, then I do not say that the motion was made in the Lapsley cases. I make the correction conditionally in this way: if they do not appear on the face of the paper, I do not say that I made the motion in the Lapsley cases; but, nevertheless, I do not think that the general tenor of my statement would be materially different, whether they were expressly embraced in it or not. I think the general tenor of my statement of facts would be substantially the same.

Then with regard to another point intimately connected with that. I was asked whether I made an agreement for the transfer of the Lapsley cases, and whether they went up on agreement with the opposite counsel, and by my consent. I answered that I did not think they did. My correction there is exactly of the same character as in the other instance. It depends entirely on how that paper was entitled.

Question, (by Mr. Billinghamst.) You have often referred to "that paper." What paper do you mean?

Answer. I mean the motion to transfer which I made, as I suppose there was a written motion in the ordinary course. If that paper did not embrace the Lapsley cases, but embraced only the other three classes of cases, in which I find orders, then I have to correct my statement with regard to my not having made an agreement for the Lapsley cases going up, because I know of no other manner for their getting to Austin. I see there orders made purporting to have been made by consent; and if I did not rely on my motion for bringing them up, they must of course have gone up under an agreement of that kind. But as to any agreement or consent, to the extent and of the precise import of the one which I see embodied in the minutes, I have not now the most distant or faint recollection. On the contrary, I do not see how I could have made an agreement of that kind, on the ground there alleged of the interest of Judge Watrous in the subject-matter of controversy, because their removal to Austin did not obviate the difficulty. The same disqualification would have existed in Austin as in Galveston, and the grounds alleged as a cause for the transfer would have been nugatory, puerile, and silly on their face.

Question, (by Mr. Billinghamst.) Suppose that you and Judge Hughes were negotiating about substituting a counsel to try the cases?

Answer. I was going on to remark, that as to any arrangement at that time at Galveston, which might have superinduced an entry of that kind, I have not now the most faint or distant recollection, nor have I at this time the most faint or distant recollection, of having had at that time a knowledge of such a cause or reason for any such agreement or arrangement. Such a proceeding or expectation could not, in fact, have been grounded on that. The moment a proposition to substitute a counsel to try the cases was presented to me, it was repelled, and my consent peremptorily refused.

Question, (by Mr. Billinghamst.) Where was that?

Answer. That was at Austin, to the best of my recollection; but whether at Austin or anywhere else, without my consent being obtained, how could that have been made the ground of their removal? I considered the whole proceeding as wholly unwarranted by law. They were taken up from Galveston, as I have always understood, by virtue of my motion.

I was going to make an additional statement, with the same view, that my whole object in transferring the cases was to have them tried at Austin, in the ordinary course, before that court. I followed them up, had my consultations, and made my preparations, solely with the view to try them in Austin, in the ordinary course; which is altogether inconsistent with what appears on the face of the entries.

Question, (by Mr. Billinghamst.) Have you any other explanation?

Answer. In my second examination I stated that I thought I was incorrect in stating on my first examination that I had a faint recollection of having heard something at Galveston with regard to some peculiar relation in which Judge Watrous may have stood to the subject-matter in controversy in the suits. After looking at this record, and seeing the two-fold statement there of the transfer of the cases to Austin, I was satisfied that the latter part of that statement, with regard to his connexion with persons by blood who had some interest in the title, was the cause of the impression of which I spoke. I think now that that is the very matter which was the cause of what I first stated to the committee as my faint impression; but it was so faint and vague that I could not then speak definitely or positively with regard to it. I think that that had reference to what is there stated—his connexion by blood with some persons who had some interest in the title—and I cannot now think, from the best recollection I have on the subject, that it had reference to any pecuniary interest which Judge Watrous had in the title. I think I have a pretty distinct recollection of his announcing from the bench this relation of consanguinity with persons interested in the title; and the fact of my having a distinct recollection of that, without its being in connexion with anything else, induces me to think that it was in respect to that alone, and that my impression was correct; and I think it was justified by that circumstance. I now correct my last statement in regard to that, and say, that I think my impression about that was correct; that I did hear something in regard to his relationship, by consanguinity, with persons interested in the title.

There is another matter which I wish to correct. I was asked the

question, whether I had continued these cases at Austin? I think I have a distinct recollection of having made a continuance in cases in Austin, after these transfers from Galveston. But I had, it seems, four series of cases altogether. Two of them, I believe, remained in Galveston, and the other two went up; and I stated that the continuance, which I am pretty confident I made in such cases there, was made in the Lapsley cases. It may have been in the other series of cases, or I may have continued them together; and I now state, that I cannot be positive whether that continuance was in the Lapsley cases, or in another similar series of cases which I had in that court at that time. It may have been in the Jacobs and Christy cases.

There was another point which I was asked about—whether I filed special pleas? When the question was asked me, my mind was drawn entirely to the idea of having filed pleas embracing facts, setting up a counter title, or adverse title; and I fixed my mind on that in making my answer, that I had not filed special pleas. I meant thereby to say that I had not filed pleas showing adverse titles in the other parties. I had not done so, because I had not the documents to enable me to set forth the title under which they claimed. If the question had been asked me whether I had filed pleas of limitation, I should have said that I thought I had; but the idea had not occurred to my mind, and I cannot say now that I did not file pleas of limitation; I may have done so. I cannot be positive, but I am rather inclined to think that I did.

I was also asked by the committee whether I was employed in the Ufford and Dykes case. If the committee will refer to page 366 of the calendar, they will find the names of two men named Cook among the persons who were defendants in that case. They were an old gentleman and his son, who lived in Williamson county. It seems that these cases and the Hendrick cases never went up to Austin at all, though the orders were made to transfer them; and at a subterm judgment was entered up against the defendants because they were not there to answer. I took it for granted that the cases had gone up to Austin, and I did not go to Galveston to attend to them; but, to my astonishment, I found that they had not gone up, and that judgment was entered against the defendants by default in Galveston. These Cooks employed me. When the committee asked me the question, the reason why my mind did not then refer to that particular case in which the Cooks employed me, was this: There was a man named Dykes in Williamson county, and a man named Dykes in McLellan county, where these lands were located, and when I was asked the question this man Dykes was as liable to be sued as any of the others, and I was under the impression that he had been sued; but he had not employed me, and as the inquiry was in regard to the Lapsley cases, and this case had altogether gone out of my recollection, my mind immediately recurred to the man Dykes, in McLellan county, and I answered at once that Dykes had not employed me. I think it was distinctly impressed on my mind all the time, and I knew that he had not employed me.

Question, (by Mr. Billinghamst.) You mean now to say that you were employed in the Ufford and Dykes case?

Answer. I was employed by the Cooks, but to what extent my connexion reached I cannot say at present; whether it embraced each defendant, and Mr. Dykes among the rest, I cannot say. The Cooks employed me, and paid me probably.

Question, (by the chairman.) I notice in the latter part of the order on the minutes: "And further, it is agreed that the continuances, and all other orders heretofore made, be corrected, so as to read as made by the consent of parties, and not by the order of this court."

Answer. I must make the same answer to that which I have made as to other orders; I have no recollection of such a consent.

Question, (by Mr. Cushing.) Can you confidently state that you were only engaged for the Cooks in that case?

Answer. I cannot say positively. I know that Messrs. Cook employed me on behalf of themselves; and as to whether that embraced every other defendant or not I cannot tell. It is probable that it did. But still the Dykes were strangers to me, and, to the best of my recollection, never placed themselves in the position in which I could consider them as clients. I cannot now recollect, nor do I believe that Dykes ever paid me either a principal or retaining fee, or did any act which authorized me to consider the relation of client and counsel as existing between us.

In explanation of my answer to the question by Mr. Billinghamst, whether I recollected being employed by anybody in a case in which Ufford was plaintiff and Dykes defendant, I wish to make this explanation and correction. When I came here, yesterday a week ago, that case (Ufford *vs.* Dykes) had wholly gone from my recollection, and when the question was first asked me whether I had been employed in such a case, it appeared entirely new and strange to me; and so it did when the *record* was first shown to me, and I saw my name there in the order entered in that case; and so it remained until I afterwards saw in the judgment entered up in that case, the names of the Cooks, by whom I had been employed on behalf of themselves and others. That then immediately revived my recollection of my having been employed in that case by the Cooks, as I have stated in the correction of my testimony. Had I been asked the question whether I had ever been employed in a case of Ufford against Cook, and others living in Williamson county, I should at once have recollected the case, and seen I was. Or had the record shown me been in the case of Ufford against Cook *et al.*, I should immediately have recognized the case, and said I had that order made. The same circumstances revived my recollection of there being two men of the name of Dykes—one living in Williamson, and the other in McLennan county.

JOHN TAYLOR.

EXAMINATION OF O. C. HARTLEY.

WEDNESDAY, MAY 19, 1858.

Oliver C. Hartley, sworn.

Question, (by Mr. Taylor.) Have you any knowledge of a suit formerly tried in the district court of Texas, in which Ufford was plaintiff and Dyches and others were defendants?

Answer. Yes, sir.

Question. Had you any connexion with that case?

Answer. I was counsel for the defendants.

Question. Were you present at the trial of that case?

Answer. I was present at the final trial.

Question. At what term was that?

Answer. My impression is that it was the fall or winter term of 1854-'55.

Question. Had there been a previous trial, at which you had not been present?

Answer. There had been a default and a verdict, which was set aside in March, 1854. About there being a verdict, that is hearsay, for I was not in court at the time, and do not recollect to have seen the record. It was on my motion that it was set aside.

Question. Were both parties ready for trial when that term began the term when you were present, and the trial took place?

Answer. No, sir.

Question. State all you know in relation to the matter.

Answer. Mr. Thomas P. Hughes, of Georgetown, Williamson county, where the land lay, and where the defendants resided, came into my office some time in March, 1854, and spoke to me of this judgment which had been taken by default in these cases. He desired that I should endeavor to have it set aside. I asked him whether he had any authority to employ me. He would not say that he had. He felt an interest in these people as his neighbors. His impression was, that it was important that action should be had before court should adjourn; and it was then I think near the period of adjournment, although in that I may not be correct. He went off to Colonel Allen, who had resided there and was acquainted with these people, and who may have had an interest, for all I know, in the land. Colonel Allen came to me and professed that he felt authorized to employ me in behalf of the defendants, to have the default set aside. I filed a motion in arrest of judgment and a motion for a new trial. I have not referred to any record, and I only give the committee my recollections; where, then, what I say differs from the record, the record will be taken in preference. I will state that under our practice in our State courts, a motion for a new trial will not be entertained after a motion in arrest of judgment. My impression is, that the motion in arrest of judgment was filed first. One morning after the motions had been argued—perhaps one of them—I started out

to get Colonel Allen to make an affidavit of meritorious defence which had not yet been put in ; as I was returning I met Judge Hughes at the corner of my pavement. He was not then employed in the case. He spoke to me and told me that Judge Watrous came into his office the evening before, where he and Mr. League were, and said that he was in great perplexity about that case ; that he did not like to see the case go off in that way ; that the motion in arrest of judgment was not sufficient, and that there was no affidavit of a meritorious defence in support of a motion for a new trial. Judge Hughes said he remarked to Judge Watrous, that perhaps Colonel Taylor might be regarded as not only the attorney at law of the parties in the defence, but as their attorney in fact, whose duty it was to see to the removal of all of the papers to Austin, (about which I presume you understand.) Judge Watrous, he said, appeared to think that there might be something in that, and Judge Hughes told me that Judge Watrous said that if I would put in an affidavit of meritorious defence, Judge Watrous would grant the motion for a new trial. I told him that I had just been out for the purpose of getting Colonel Allen to make an affidavit of meritorious defence.

When the court met, I withdrew the motion in arrest of judgment, and filed the affidavit in support of the motion for a new trial, and Judge Watrous granted it. That was in March, 1854. When I say that the trial was in the winter of 1854 and 1855 my impression is that it was the next term of the court, and that the next term of the court occurred at that time. Mr. Thomas Hughes and myself had some correspondence about our being employed further. I was employed for the purpose of getting that judgment set aside. Through correspondence of Thomas P. Hughes, I was further employed in the case for the final trial in connexion with him. The defendants were to give us a thousand dollars for trying the case in the district court—one-half for him and the other half for myself. That arrangement was made before the next term of the court, or before the trial. Mr. Thomas P. Hughes came down to assist at the trial and brought the documentary evidence along with him. I am not certain whether the case was set for a particular day or not, but my impression is that it was. I will remark here that when the motion for a new trial was granted, "Well," said Mr. Hale, "I am ready for trial." I replied, "The case goes over under the rule to the next term." "No," said he ; "if you make a showing for continuance, it does, but otherwise it does not. The judge decided that there had to be an affidavit, and the affidavit was made and put in for a continuance. I may have put in an affidavit. If I did, it was as to the circumstances of my employment. At the next term Thomas P. Hughes came to town. We were ready for trial. The case may have been set for a particular day, and it may not. I had a good deal of other business to attend to, and I was also desirous of having the assistance of Judge Hughes in the case, and I promised, if he would come into the case, to divide our half of the fee with him. That is the way he got into the case. The plaintiff was called on to say whether he was ready for trial. Mr. Hale announced that they were not ready for trial ; that they

could not go to trial for want of proof of the genuineness of one of the powers of attorney—the power of sale. Mr. T. P. Hughes, who had come down from Georgetown, was anxious for trial. We supposed that we were as ready as we ever would be. Not having any cause in the world to suppose that there was any question as to the genuineness of that document, we waived the proof of it. We may have waived other matters, but my recollection is distinct as to that power of attorney. We severed in the trial. There were defendants who plead not guilty, and had no special defence, and nothing except to attack the plaintiff's title. There were other defendants who plead the statute of limitations, and some who claimed valuable improvements. The case of those who had no special defence was tried first. On each trial my impression is that we took every possible objection to the original title, and all possible objection we could suggest to the validity of the original concessions themselves. Whether we eventually saved them or not I cannot say positively, but my impression is that we did. The record will show.

In this connexion I would state that when I got Judge Hughes to assist me, he distinctly stated that he would make no objections to the validity of the original concessions, and that he had no confidence in any point except one, which was, that the grant or concession had been previously satisfied, located, and extended at another place, and that the title had been extended. He considered that an impregnable defence, and on that he mainly relied; and I concurred in that opinion. Thomas P. Hughes, on the other side, was anxious that every possible objection should be taken. He said that we might take all the objections we pleased. Judge Hughes remarked that he believed the original title was good; that the holders of it had a good title to the land extended up to the mouth of the Bosque, but not to the land in Williamson county. When we came to try the case of the second batch of defendants we objected to any of the jurors who sat upon the previous trial. Judge Watrous decided that it was not a valid objection, and it was overruled; and, as my statement is made with a view to cover anything which appeared to me particularly out of the way in the case, I will remark that in the next case—I think it was the next case; at least it was soon after the Ufford and Dykes case, that it immediately follows it, in my recollection; it was one of the Christy cases—Judge Hughes objected to any man sitting on the jury who had ever before sat upon the trial of a Christy case, and Judge Watrous decided that any juror who had previously sat in any of the Christy cases was incompetent and excluded them.

The verdict was for the plaintiff in both cases, and a bill of exceptions was made preparatory to taking them to the supreme court. My impression is, that a petition for a writ of error and bond were filed; but the defendants, for some reason or other which I never could understand, did not take it.

Now, there is one more matter. I will state all I can recollect. It is within a year or six months past, hearing of what was going on, something suggested to me why did I not object to Judge Watrous sitting on the trial of the Ufford and Dykes case; because when the

question occurred to me, I knew that he was interested in the La Vega title, which is of the same concession as that of Rafael Aguirre, the whole three being granted in one. The question occurred to me why did I not do it, and the only answer I can give is the only one that can be given, and that is, that I could not have had information of that fact at that time—the fact that he was interested in the title. I have stated these facts as they have come to my mind.

Question. What one of these cases was tried first when the severance was made?

Answer. There was one case, but there were a great many defendants. There was a severance. Those who pleaded merely not guilty were tried first, and those who had a special defence were tried last.

Question. Who was foreman of the jury in the first trial?

Answer. I cannot tell you. I do not recollect. My impression is, that Judge Bucknor was foreman of one of the juries. He may have been of both.

Question. Why was the proposition made in relation to waiving the proof of the signature; what evidence did they propose to present?

Answer. I have been trying to recollect how it was. The fact may be that we put Mr. Hale to his showing for a continuance. We thought or were certain that he would make a good showing. Our practice, in this respect, is very liberal where nothing is suspected. If Mr. Hale had made his statement that he would make an affidavit so and so, and the court had intimated that it would grant the continuance, we did not always require it to be put in form.

Question. In relation to the power of attorney, was there any statement of the want of proof at that time?

Answer. Yes, sir.

Question. Of what particular proof?

Answer. Mr. Hale stated that he was not prepared to prove the signature to the power of attorney.

Question. Have you any recollection that he produced any copy of the power of attorney at first?

Answer. I have no impression on that subject. My impression is very decided that the power of attorney was read at the time. I have no recollection whether it was produced at the time of the colloquy about the continuance or not. I presume that it was produced, as that was the proper mode of proceeding. I suppose that it was produced.

Question. Who produced it?

Answer. It was produced by the plaintiff.

Question. Had you any knowledge of that power of attorney before it was produced?

Answer. I do not know whether it was filed or not. Some of their title papers were filed.

Question. Had you any knowledge of that paper other than through the opinion given to you by the plaintiff?

Answer. I had none.

Question. None until it was communicated to you by the plaintiff's attorney?

Answer. None ; and I have none now. I know nothing about the paper.

Question. Have you any recollection of what took place on the trial of the case in reference to the evidence ; I understood you to say that the power of attorney was put in on the trial ?

Answer. That is my impression. There is a statement of the facts on record, in the form of a bill of exceptions.

Question. I understand you to say that your impression is, that the power of attorney was read at the trial ?

Answer. Yes, sir.

Question. Is that impression distinct ?

Answer. The impression is very distinct. The difference between an impression and a distinct recollection, with me, is this : when I can distinctly recollect, I can recollect the whole scene, and see the party just as he was reading the document. I have not such a recollection in this case. I think that we merely waived the proof as to the genuineness of the signature. The agreement will show how that was. I have never referred to the papers from that day to this.

Question. You stated that the original concession embraced the two titles of La Vega and Aguirre ?

Answer. It was to La Vega, Rafael Aguirre, and José Maria Aguirre.

Question. It was a single concession embracing three grants ?

Answer. Yes, sir ; and I think one of the objections to it was taken upon that ground. The objection was that it embraced thirty-three leagues, when the law of Mexico provided that no more than eleven leagues should be united in the hands of any one person.

Question, (by the chairman.) In your argument you and your colleagues attacked the original concession from the State of Coahuila and Texas to the two Aguirres and La Vega ?

Answer. Yes, sir ; Thomas P. Hughes and myself. We did not argue that question to the jury. We resisted its admission as evidence on that ground at the trial.

Question. I understand you to say that the original concession covers the land in controversy in the Ufford and Dykes case, and the land in controversy in the Lapsley cases ?

Answer. All I know about the Lapsley cases is from heresay. There were three eleven-league grants united in the same concession. There is, I presume, no question that the Lapsley cases involve the La Vega title.

Question, (by Mr. Tappan.) Had you any personal communication with Judge Watrous prior to your going into the Ufford and Dykes case as counsel ?

Answer. None at all that I recollect of.

Question, (by Mr. Billinghamst.) How came you to admit that power of attorney of sale ?

Answer. Because we never dreamed that there was any doubt of its genuineness.

Question. Had you seen the power of attorney before?

Answer. I cannot say that I had; I cannot recollect that I had.

Question. Had either Thomas P. Hughes or yourself a copy of that power of attorney?

Answer. I do not recollect; I do not think either of us had.

Question. Do you recollect of having seen it before its admission?

Answer. I do not.

Question. How did the question of that power of attorney come up?

Answer. When the case was called for trial, Mr. Hale said that he was not ready; that he had not ready the proof of the power of sale.

Question. Who proposed then to admit that power of attorney?

Answer. I do not recollect.

Question. Did you do it?

Answer. I do not recollect that I did; my impression is that Mr. Thomas P. Hughes was the most anxious to go to trial at that time of either of us; he had come there for the purpose of having a trial.

Question. Had he a copy of that power of attorney?

Answer. I do not know whether he had or not; I do not think he had; I do not recollect whether he had or not.

Question. Was it not a matter for consultation, on the part of the counsel of the defendant, after Mr. Hale had asked for a continuance on that particular ground?

Answer. I cannot recollect; but I presume that it was. Of course, we consulted together—Thomas P. Hughes, Judge Hughes and myself. I cannot recollect who made the suggestion to let it be admitted. I cannot recollect that Judge Hughes suggested it first, or that Thomas P. Hughes or myself did; but I have an impression that Thomas P. Hughes was more anxious for the trial than either Judge Hughes or myself. It was natural that it should be so.

Question. Was the admission of the power of attorney verbally agreed to, or was the agreement in writing?

Answer. By written agreement, I presume. I do not, however, distinctly recollect the fact of consultation.

Question. Do you recollect of making any objection to the admission of the power of attorney?

Answer. No, sir.

Question. Neither on the trial nor when it was first suggested?

Answer. Before we went to trial we had stipulated, in writing, not to object to the genuineness of the signature. There being then no question at all as to the power of attorney, the circumstances respecting it made no impression upon my mind. I never forget anything which makes a decided impression; but things casually occurring I am liable to forget.

Question. Look at the paper which I give you, and tell me whether it is a copy of the agreement made by you on the trial?

Answer. It is my impression that it is a copy, but I cannot say whether or not it is a true copy.

Question. Are you able to state why that admission was limited to that trial?

Answer. We only made the admission for the purpose of getting to trial at that term. Our object was, of course, to get a final trial and have a conclusion of the matter. If, then, we had got a judgment, and a motion for a new trial had been sustained, the object of an agreement would be lost entirely, the object of waiving the proof of the signature would be gone. We waived it for the sake of getting to trial and not because we knew that it was genuine.

Question. Since you have looked at the agreement and find the power of attorney specifically mentioned there, are you enabled to state whether you had any consultation amongst yourselves as to the propriety of admitting that power of attorney?

Answer. I cannot state any more distinctly than I have already done. I have no doubt at all that we had a consultation as to admitting the power of attorney.

Question. There are admissions in that agreement on both sides?

Answer. Yes, sir.

Question. Was it necessarily read to the court?

Answer. Of course this agreement was brought to the attention of the court and jury.

Question, (by Mr. Chapman.) You say that you were prepared for trial and that Mr. Hale was not, in consequence of not having his proof of this power of attorney?

Answer. I think that was so.

Question. Was that sufficient to enable him to procure a continuance of the case?

Answer. My answer to that question is, that I do not recollect exactly the course of proceeding. The natural course of proceeding was for the plaintiff to be called on to announce himself ready or not. Mr. Hale, when called upon, stated that he was not ready and could not go to trial. A mere declaration of counsel in a case, that he is not prepared to go to trial, is not a sufficient ground for granting a continuance. The rule is to require him to submit his affidavit and admit the facts that he wants to prove, in order to avoid a continuance. Whether that was formally gone through with or not the record will show. If the record does not show that that was done formally, then I say that the thing was done informally.

Question. Could you not at that time have successfully resisted a continuance?

Answer. We did not think so, and certainly we must have had cause.

Question. Was it simply because Mr. Hale had not the proof of the execution of that power of attorney that a continuance was asked?

Answer. The question about the power of attorney is the prominent one in my mind. It was the question on which the continuance turned. It was so much the most prominent one in my mind that while I remembered it I had forgotten all the others, though I had the impression that there were others. It started us to make admis-

sions on both sides, and for the sake of convenience, and the result you have in that agreement.

Question. Was it necessary for you to make admissions?

Answer. We must have considered that it was at the time, or certainly we would not have made them. My impression is that the matter was talked over by us in the presence of the court, and the understanding was that the case would be continued on that ground, if we did not waive the point.

Question. Had you received any notice to produce that power of attorney on the trial?

Answer. No, sir.

Question. And you had taken no steps to ascertain what it was?

Answer. It was his paper, and not ours.

Question. Was it not in the possession of Thomas P. Hughes?

Answer. No, sir. It may have been in the possession of Judge Hughes as counsel for the plaintiffs under the La Vega title. There was no question at the time that it could be produced, and there was no doubt that it was genuine. We would merely have objected to it, and required proof, not that we had any doubt of its genuineness, but because it was the course of proceeding to require documents to be proved.

Question. Was it the practice in that court to allow the continuance of a case on the allegation merely that the party was not prepared to make his proof?

Answer. The court has its rules. It is very liberal in the application of them. Judge Watrous is liberal in granting continuances.

Question. You made no resistance to the application for a continuance?

Answer. I do not say that. I have no doubt at all that if it had been a question which the Supreme Court of the United States would revise, we would have required the affidavit to be made, and have taken an exception to the granting of the continuance; but it being one which the Supreme Court would not revise, there was no necessity to put anything on record about it.

Question, (by Mr. Taylor.) If I remember right, you stated that after a new trial was granted the counsel for the plaintiff told you, or stated to the court, that he was ready for trial, and wished to go on at that term?

Answer. Yes, sir.

Question. And you resisted that?

Answer. Yes, sir; and I remarked that I was not obliged to make a showing, but that the case went over under the rule.

Question. Did you make an affidavit?

Answer. Yes, sir; we were required to make an affidavit. I recollect that.

Question, (by Mr. Cushing.) Was any question made to the court, or any point ruled by the judge on the power of attorney?

Answer. I cannot state whether there was or not. There certainly was no point made as to the genuineness of the signature, and the fact that the party who executed it was the proper officer.

Question. Will you reflect, in order that you may state with some degree of precision, whether there was any argument to the court or not on any question arising on the face of the power of attorney?

Answer. I do not recollect. I do not know whether we saved the point or not. We objected to the sale under that power of attorney, because the sale was really made more than seven years afterwards. The idea was to bring it within the presumption that the party who executed the power was dead. We made some objection with a view to that. We called Mr. Merriman, who was counsel for the other side, to prove by him that the deeds under the power of attorney were antedated; that they were in his handwriting, and dated prior to the time he went to Texas. That objection was made, but whether it was finally saved or not I am not certain. I think it is possible that it was not.

Question. Did that involve any discussion of the face of the power of attorney?

Answer. It certainly did not involve any discussion of the validity of the original power of attorney.

Question. Do you remember in what language the power of attorney was first made out? Was it in Spanish or English?

Answer. I cannot remember, but it is probable that it was in both. I do not remember distinctly. I have no doubt Mr. Hale had a copy of it in both languages.

Question. Is that of your own knowledge, or is it conjecture merely?

Answer. It is my conjecture.

Question. Will you reflect, and see whether it was not the original Spanish, and that alone, which was used in the case?

Answer. I am not very familiar with the Spanish language. The mode of proceeding in Texas is, where a statement of facts is made up in the State court, they put in everything which was in the case, and the statement of facts and bill of exceptions in this case was made up pretty much in the same way. My impression is that it was made up entirely after the manner of a statement of facts in our State courts.

Question. State, from your distinct recollection of the circumstances of the trial, whether there was any occasion for reading the power of attorney, and whether it was read or not?

Answer. I can only state my impression of the matter. I have an impression that it was read, but I cannot recall to my mind the scene in court, the party reading the power of attorney.

Question. Will you state on what collateral fact refreshing your memory that that is stated?

Answer. It is based on what I would rather suppose would be done?

Question. Will you state, from your own knowledge of judicial proceedings, if a document be agreed to, and be in no other wise material, why that document should be read? Is it not usual to refer to a series of documents where no question is raised on an individual document?

Answer. I do not know that no question was raised on it.

Question. Will you state whether any question did arise?

Answer. I do not say that any question arose. I do not recollect any except the one I have mentioned, which did not go to the original validity of it. There may have been an objection as to the sale, as to the time at which the parties had a right to sell under the colonization laws.

Question. When you state that there may have been, do you state that conjecturally, or as a fact?

Answer. I do not state it as a fact. My impression is, that that agreement was drawn with a view to waive the proof of the power of attorney, but not to waive proof of the fact which it proved.

Question. The fact that it was a power?

Answer. We waived the proof of the genuineness of the signature.

Question. Having proved the genuineness of the signature, what else would remain than that it was a power of attorney?

Answer. Nothing but to bring it to the attention of the court.

Question. And is bringing the power of attorney to the attention of the court a fact involved in the power of attorney?

Answer. Certainly the validity of the power of attorney is not involved.

Question. You have stated that the considerations appertaining to the power of attorney affected the question of continuance; was any motion made for continuance in reference to the power of attorney?

Answer. I have stated that I recollect distinctly Mr. Hale standing at the bar of the court and informing the court that he was not prepared to go to trial, and that he was not prepared because he wanted the proof of the power of attorney. As I have said before, I do not recollect whether it was all formally done.

Question, (by Mr. Clark.) Can you state what Mr. Hale said about the power of attorney?

Answer. Mr. Hale said that he was not prepared to prove the power of attorney, and that he would have to have time to get his proof.

Question. Did he describe the power of attorney?

Answer. We were all familiar with the papers of the title, and when he spoke of the power of sale we knew what he meant.

Question. Did the judge know?

Answer. I do not know; Judge Hughes who was with us knew, I presume, all about the power of attorney, because he was of counsel for the claimants under the La Vega title which was included in the same power of attorney.

Question, (by Mr. Cushing.) Do you state that Mr. Hale held the power of attorney in his hands?

Answer. I did not state that.

Question. Had he the power of attorney in his hands?

Answer. I cannot recollect.

Question. You cannot state that when he stood at the bar of the court, he had the power of attorney in his hands?

Answer. I cannot.

Question. Can you state whether he made any specific statement to the judge concerning the power of attorney?

Answer. I have stated all I can recollect.

Question. What did he say concerning any power of attorney?

Answer. He said in substance that he was not prepared to prove the power of attorney.

Question. What power of attorney?

Answer. The power of sale.

Question. Did he describe it in any other words than the power of sale?

Answer. He made himself intelligible. It was the power under which the plaintiff in the case derived his title.

Question. Did he say anything which identified this power of attorney as the power concerning which he spoke?

Answer. I certainly knew nothing about that particular paper.

Question. Did he use, in saying the power of attorney, any words descriptive of the power of attorney, from the two Aguirres and La Vega?

Answer. I do not recollect the words that were used.

Question. Were any words uttered, according to your belief, which would indicate to Judge Watrous a description of the power of attorney?

Answer. I can state only, that they said that they were not prepared to prove the genuineness of the power of attorney from Rafael Aguirre, José Maria Aguirre, and Tomas de la Vega to Samuel L. Williams to sell this property. At that time we knew nothing at all about the genuineness of the power of attorney or its identity.

Question. Suppose that Judge Watrous had no knowledge of what power of attorney, if any, which was to be introduced into this case, was any motion or suggestion made to the court at that time which would call his attention to the fact that it was the particular power of attorney from the two Aguirres and La Vega?

Answer. That it was the particular power of attorney the claimants claimed under in this case.

Question. Suppose he had no knowledge of the title?

Answer. Then I say that it was a power of attorney from the original grantees in the case to Samuel L. Williams to sell. There was nothing to prove the identical one.

Question, (by the chairman.) You are speaking now of the time the effort was made for a continuance?

Answer. Yes, sir.

Question, (by Mr. Clark.) Did the effort of resistance call up the subject matter of the power of attorney and the materiality of the proof as to the genuineness or authenticity of that power to the application for continuance?

Answer. All these things are obvious. The necessity for proof of the genuineness of the power of attorney was apparent, unless we waived that point.

Question, (by Mr. Cushing.) In your practice have you ever known a Spanish power of attorney read to a jury?

Answer. I have no recollection of having heard one read, except in so far as I have stated in this case. My impression is, that this

document was in both Spanish and English, which is according to the practice of Judge Watrous's court.

Question. Is it the practice in his court to read Spanish documents to the court?

Answer. Yes, sir, in connexion with translations.

Question. But without the translation?

Answer. I have an indistinct recollection of a trial where the title was translated orally to the jury, the interpreter being sworn.

Question. Is it, so far as you know, the practice of Judge Watrous's court for Spanish documents to be read there in Spanish?

Answer. There is no rule against it that I know of. It is the practice to read Spanish documents to the court.

Question, (by Mr. Clark.) Was the original or the translation read?

Answer. My impression is, that there is a rule requiring translations, and they are read to the court. I cannot state distinctly. The court refers to both. I recollect that in the Cavazos case a question was made as to the correctness of some translation.

Question, (by Mr. Billingham.) Is it the practice to read Spanish documents to the court in Spanish?

Answer. No, sir; not to read them to the court in Spanish. I do not mean that they are read in court as though everybody there understood the Spanish language as a native Spaniard. My impression is, that the court would, in case of a question about the correctness of a translation, be governed by the original. If the parties agree, I have no doubt that Judge Watrous is familiar enough with the Spanish to waive a translation, and proceed with the trial.

Question, (by Mr. Cushing.) When you said that in this case the the power of attorney was read, did you not mean, as you have just now explained, that it was put in evidence in the case?

Answer. My impression is that it was put in evidence. The bill of exceptions will show whether or not it was put in evidence.

Question. You do not mean to state that either of the attorneys rose and read the power of attorney, word for word?

Answer. I do not mean that; I mean that it was put in evidence.

Question. You also stated that this agreement was read in court?

Answer. There I come to my impression. I have no distinct recollection about that. I had no idea that I would be called to state with so much accuracy on these points.

Question. When you stated that this agreement had been read in court, did you not mean, as you have just now explained in regard to the power of attorney, that it was used in evidence in the case?

Answer. My impression is that it was in evidence in the case.

Question. And not read?

Answer. I have no distinct recollection of its being read?

Question, (by Mr. Cushing.) You have stated that there was one concession; were there not three separate grants in that one concession?

Answer. It was a grant either of eleven leagues to each, or thirty-three leagues to the whole; I do not recollect which.

Question. Did it give a title in common or separate titles?

Answer. I do not recollect whether or not it used the term equivalent to several, or separate, or joint.

Question. Was any objection raised at the trial as to the propriety or competency of the trial of the case by Judge Watrous?

Answer. No, sir.

Question. Was any objection or exception of that kind mentioned by any one?

Answer. No, sir. It occurred to me since to wonder why the objection was not made, and the only reason I could assign to myself was, that at that time I could not have known of his interest in the La Vega title.

Question. You stated that some jurors were rejected on the second trial in the Christy case, and that some jurors previously empannelled in *Ufford vs. Dykes et al.*, were not rejected?

Answer. Yes, sir.

Question. Be good enough to explain the difference between the two questions.

Answer. In the Ufford and Dykes case the defendants in the first trial pleaded not guilty merely, and relied on the objections to the validity of the plaintiff's title. The defendants in the second trial, in addition to the plea of not guilty, pleaded the statute of limitations, and some of them suggested valuable improvements in good faith. In the Christy cases there were separate suits against each individual where the plaintiff's claim was based on the same title.

Question, (by Mr. Cushing.) And for that reason jurors were not allowed to be empannelled the second time in the Christy cases, but were in the other cases?

Answer. I only know the ruling, not the reason.

Question. And in the several Christy cases where the defendants were not severed, was not the same defence made on the statute of limitations?

Answer. The defences in the Christy cases may have varied. The defendants in some cases pleaded not guilty merely; others pleaded not guilty and the statute of limitations, and some of them claimed by location; but of course they would have all gained in case they could successfully attack the plaintiff's title.

Question. Did they not all embrace the border-league question?

Answer. Yes.

Question. Were there not cases of mis-trial?

Answer. Some of them were; but I think the defendant, in some cases, got verdicts. I am not certain that there was a mis-trial in any case.

Question. I am speaking of the cases in which the jurors were rejected?

Answer. The exclusion was as to jurors who had sat on the previous trials of the Christy cases. If there were any cases of mis-trial I have no recollection of any distinction being made between the cases of jurors who had sat in cases of mis-trial and those who had sat in cases where there was a verdict for the defendant.

Question. Please to state for what reason you have testified to the committee in respect to the ruling of Judge Watrous concerning the empannelling of jurors in the Christy cases?

Answer. I started out to tell everything about the Ufford and Dykes case—everything that occurred to me irregular on the trial of it, and in order to bring out what appeared to me the irregularity as to the empannelling of the second jurors. I stated the fact as to the empannelling of the jurors in the Christy cases, which were connected in my mind with the others, having happened immediately afterwards.

Question, (by Mr. Clark.) What other counsel were there in the Ufford and Dykes case besides Mr. Hale and yourself?

Answer. Mr. Merriman and Potter, and Mr. Allen and Hale were the counsel for the plaintiff. Mr. Allen did not participate in the trial at all. The counsel for the defence I have already stated.

Question. Do I understand you to say that the fact of Judge Watrous's interest with some gentlemen in Alabama in the La Vega tract was unknown at that time?

Answer. I stated that it has occurred to me since that the only reason why I did not make the objection to Judge Watrous sitting in the case was that I could not have known it at that time; but the exact time when I became aware of the fact of his interest in the La Vega grant I cannot recollect. I certainly think I should have objected to Judge Watrous trying the Ufford and Dykes case, if I had known of his interest in the La Vega grant.

Question. What were your personal relations with Judge Watrous?

Answer. We were personally friendly, but not intimate.

Question. But you mean that you would have felt it your duty to have objected to his trying the case if you had known of his having an interest in the trial which was the subject matter of the suit?

Answer. I would have considered it my duty to do so.

Question. And therefore you think that, up to that period, you had not heard of the judge's interest?

Answer. I cannot account, in any other way, for my not objecting. I may have heard of it, and may have forgotten it.

Question. Where do you reside?

Answer. In Galveston.

Question. You resided there during the whole of the years 1850, 1851, and 1852?

Answer. That has been my residence since the spring of 1846.

Question. Were you a constant practitioner in Judge Watrous's court?

Answer. I profess to be.

Question. Did you attend almost every term?

Answer. It was never my habit to sit in court, except when I had business in court.

Question. But you were always there at some period of the term?

Answer. Of course I was, every term.

Question. Do you recollect the Lapsley cases, so called?

Answer. I have no recollection of anything in court about the

Lapsley cases. I recollect, of course, the term Lapsley cases ; it is very familiar to me. I know in a general way, from hearsay, what they were, and the questions made about them ; but I have no personal knowledge respecting them.

Question. You recollect them being on the calendar at one time ?

Answer. Yes, I have seen the cases on the calendar.

Question. Did you ever hear them called in court, and any suggestion in respect to them ?

Answer. I have no recollection at all about it.

Question. Do you recollect the cases going away from Galveston ?

Answer. I have no recollection of the removal of the cases, or of the time they were removed.

Question. Do you recollect when you first heard of their removal ?

Answer. I recollect there was a general order for the removal of cases after the court was branched from the Galveston district to the Austin district.

Question. And these cases went with the others ?

Answer. I do not recollect specially about these cases.

Question. Had you heard, before the removal of these cases from Galveston to Austin, a suggestion of the fact that Judge Watrous was disqualified from trying them ?

Answer. I have no recollection of ever having heard it before.

Question. Have you any means of fixing the date when you first became apprized that Judge Watrous had an interest in the Lapsley cases ?

Answer. I have no means at all, except so far as it is affected by what I have stated.

Question, (by Mr. Billingham.) Were you on the trial, on the Ufford and Dykes case fully apprized that that grant included also a grant to José Maria Aguirre and Tomas de La Vega ?

Answer. Oh, certainly ; the Tomas de La Vega grant was introduced in evidence in the case, not merely the concession but the actual title was introduced. The original concession was attached to that ; the others were constructed on certified copies.

Question. Was Samuel M. Williams examined on that trial ?

Answer. Yes, sir.

Question. I understood you to say you did not fully understand why the writ of error was never prosecuted in the case of Ufford and Dykes. I ask you if you have partially, or to what extent you have, understood why it was not prosecuted ?

Answer. Mr. Thomas P. Hughes wrote to us that the defendants would not take it up. There was some negotiation, perhaps, about the terms on which we would attend to it in the supreme court. The thing fell through from inability of the parties, or indisposition on their part, to take it up. My impression is, there was a writ of error allowed, and bond filed. I think it was all ready except to remove. I know of no reason why they did not take it up. I have never seen one of the defendants. I was employed by them through Mr. Thomas P. Hughes, of Georgetown. I know of no reason, disparaging to Judge Watrous, why it was not taken up.

Question, (by Mr. Cushing.) Do you recollect the date of the trial of Ufford and Dykes?

Answer. My impression is, it was at the next term of the court after March, 1854—that it was in the winter of 1854-'55.

Question. Look at this agreement dated February 19, 1855.

Answer. I have no doubt that that is the correct date that was made on the eve of the trial.

Question, (by Mr. Billingham.) Explain, if you can, the difference in the dates when that agreement was entered into and when it was filed in court?

Answer. I presume it was marked filed about the conclusion of the trial, at the time the statement of facts was made up.

Question. When does it appear to have been entered into?

Answer. The 19th of February.

Question. And when filed?

Answer. The 27th of February. The trial lasted several days.

Question, (by Mr. Clark.) Did you know at the time of the trial of Ufford and Dykes, that the validity of that grant, or the validity of the transfer under that power of attorney, was involved in the Lapsley cases; or that the same questions as to the power of attorney were involved in the Lapsley cases as were involved in the Ufford and Dykes case?

Answer. My information was that they were.

Question. You were employed in the case of *Cavazos vs. Stillman* and others?

Answer. I was employed in that case at the hearing.

Question. Were you first employed at the final hearing?

Answer. Yes; that is, what I understood to be the final hearing.

Question. Were you familiar with the case during its early stages?

Answer. Not at all.

Question. By whom were you employed?

Answer. By Simon Mussina.

Question. Had you ever been consulted by him or any of the parties in regard to the subject-matter in controversy prior to your employment for the hearing?

Answer. No, sir.

Question. You conducted Mr. Mussina's defence?

Answer. Mr. Potter and myself conducted Mr. Mussina's defence until the arrival of Mr. Howard. I was employed because Mr. Howard had failed to arrive in time; and after he did arrive, which I think was very near the close of the hearing, I had very little to do with the case, if anything.

Question, (by Mr. Craige.) Did you argue the case in court?

Answer. No, sir.

Question. Was Mr. Mussina in court during the final hearing?

Answer. He was.

Question, (by Mr. Clark.) How much time did that trial occupy?

Answer. Several days—perhaps several weeks.

Question. Did you remain in the case till the termination of the hearing?

Answer. My impression is I did not. I was not formally discharged, but I retired when Mr. Howard arrived.

Question. When you commenced at the hearing, was any other counsel associated with you in behalf of Mussina?

Answer. My impression is that Mr. Potter was; he either came into the case before me or at the same time.

Question. Then Mr. Potter conducted with you the defence for Mr. Mussina, down to what period?

Answer. To near the close of the hearing.

Question. Then Mr. Howard arrived and took the leading position?

Answer. I cannot say whether Mr. Potter retired or not. I certainly did not take any part of any account in the case after his arrival.

Question. Did he sum the case up?

Answer. I have no recollection of his having argued the case.

Question. Was not the case argued?

Answer. I have no recollection of its being argued. I do not recollect any argument.

Question. What is your best recollection that the case was or was not argued orally?

Answer. I cannot recollect that it was argued, and I do not recollect, as a distinct fact, that it was not argued.

Question. Do you recollect whether it was submitted?

Answer. I know that it was submitted.

Question. Was it submitted on briefs?

Answer. I do not recollect that.

Question, (by Mr. Craige.) Do you recollect whether the plaintiff's counsel asked for a decree, and whether you opposed the rendition of the decree by the court?

Answer. No, sir; I do not recollect that I opposed the granting of the decree at that time.

Question, (by Mr. Clark.) Had you become familiar with the merits of the case?

Answer. As fully as one might under the circumstances.

Question. How long a period prior to the actual commencement of the trial were you employed?

Answer. Right at the time; my impression is, it was at the commencement of the trial.

Question. Was Mr. Potter's knowledge of the case superior to your own?

Answer. I cannot state that; but my impression is that it was not.

Question. What was the division of your labors?

Answer. We were all in court, and Mr. Ballinger conducted the defence mainly, except when there was something special on the part of Mr. Mussina. Somebody represented Mr. Shannon I think; but I do not recollect who.

Question. Who was employed first, you or Mr. Potter?

Answer. I cannot state that.

Question. Whom did Mr. Ballinger represent?

Answer. He specially represented Mr. Hoard, and the interest which he (Hoard) represented.

Question. Did you understand these interests to be identical with that of Mussina?

Answer. We knew that controversies had arisen; but we conducted the defence on the basis that the defendants were all equally interested in defending the suit.

Question. Did you remain of that impression till the termination of your labors in that case?

Answer. I remained of that impression so far as good faith on the part of Mr. Ballinger was concerned.

Question. Did you remain of that impression so far as the defendants themselves were concerned?

Answer. No, sir.

Question. At what period of the trial did you become satisfied that there was not good faith on the part of the defendants?

Answer. I cannot say that I ever became fully satisfied on that subject. The only incident on the trial which I can connect with that is about the time that Mr. Hoard was called to testify. A question was asked him, which was put with a view to develop bad faith on the part of some of the defendants towards other defendants.

Question. Hoard is a lawyer?

Answer. Yes.

Question. Had he been present during the whole trial?

Answer. He had been mainly present, I think, during the trial. I cannot say he was present all the time.

Question. Did you object to his examination?

Answer. He was called by the plaintiff to prove something. My impression is we objected, or swore him, perhaps, on his *voir dire*, with a view to exclude his testimony.

Question. And then you, for the first time, suspected?

Answer. No, sir; not for the first time; that was done because we had before suspected.

Question. Had Hoard participated in the trial as counsel?

Answer. No, sir.

Question. Then Mr. Ballinger argued as the counsel of Hoard, in favor of the admissibility of Hoard as a witness?

Answer. No, sir; my recollection is that Mr. Ballinger, if he argued at all, argued against his admissibility.

Question. Then Ballinger argued for Hoard and Bass, his clients, against the admissibility of the evidence of Hoard when called for the plaintiff?

Answer. If he argued at all he did. He certainly did not argue in favor of his admissibility. I have stated that I was satisfied, up to the conclusion of the trial, that Mr. Ballinger conducted his part of the defence in good faith, and did nothing inconsistent with that. Whether he argued that question particularly, or left it to us to argue, Mr. Hoard being his client, I cannot distinctly recollect.

Question. Was there, during the progress of that trial, any develop-

ment in court that there was, in truth and in fact, a collusion between the plaintiffs and a portion of the defendants?

Answer. Mr. Hoard was called, as I previously stated, to prove something on the part of the plaintiff, and was asked by the defendants' counsel a question, the exact terms of which I do not recollect. I believe the question was put at the instance of Mr. Mussina. That was one of the few cases where Mr. Ballinger did not occupy a prominent part in the conduct of the defence. The object of the question was to elicit the fact whether or not he had a common interest with the plaintiffs in the suit; whether he had not made some arrangement with the plaintiffs which gave him a common interest against Mussina. He declined to answer. Judge Watrous at first said he would have to answer. Then argument commenced about it. The court then adjourned. Whether the judge took the matter under advisement, or whether he decided the question that he should answer, I cannot distinctly recollect. I do not recollect distinctly as a fact that he took it into consideration, nor do I recollect that he adhered to his intimation of opinion. The next morning, my recollection is, Judge Watrous decided that Mr. Hoard would not be compelled to answer the question. I have never looked at the record since I testified before, and I have not recently referred to my previous testimony on the subject.

Question. Is that your full answer to the question?

Answer. As far as it occurs to me, Mr. Hoard did not answer the question.

Question. Do you mean that as a full answer?

Answer. That is the main or only distinct fact that I recollect at the present moment.

Question. You say that Hoard, when on the stand as a witness, was asked by the counsel for Mussina a question implying a collusion between Bass and Hoard and the plaintiffs?

Answer. That is my recollection. The exact form of the question will be found in the record.

Question. Did Mr. Ballinger object?

Answer. No, sir.

Question. Who did object?

Answer. Mr. Hoard.

Question. You answered me a little while ago that Ballinger acted as counsel for Bass and Hoard. When Hoard was on the stand as witness, and when the counsel for Mussina put a question to him, what counsel objected?

Answer. Mr. Hoard declined to answer the question. I do not recollect that any objection came from counsel, but from the witness?

Question. Then you mean that the witness pleaded his privilege?

Answer. I suppose so; he made some objection.

Question. You pressed for the answer?

Answer. Yes.

Question. The judge took time to consult, intimating that the witness was bound to answer; and the next morning the judge, either reconsidering or reversing his decision, did not enforce an answer?

Answer. That is mainly the fact, except that I stated I did not recollect, as a fact, that the court took the question under consideration at the time of the adjournment. I recollect, as a fact, that the court at first stated that Mr. Hoard must answer the question. Some discussion probably ensued; I do not recollect it distinctly. About that time the court adjourned; and I do not now recollect, distinctly, as a fact, whether the court took it under consideration; I do not recollect that it did not.

Question. Is that the only fact that you can state as developing in court the existence of the collusion to which reference has been made?

Answer. That is the only fact which occurs to me now.

Question. Did you, as counsel for Mussina, insist to the court that it was apparent there was a collusion of interest between the plaintiff and a portion of the defendants?

Answer. I do not recollect how that was; I know we insisted on having that question answered; and that it was not answered.

Question. Did you, during that term, raise the question of the jurisdiction of the court over Mussina?

Answer. I do not recollect; I was employed temporarily in the case, and have had nothing to do with it since.

Question. Had it occurred to you that the plaintiff, being a citizen of Mexico, and Mussina being a citizen of Louisiana, he could not be impleaded in the federal court of Texas?

Answer. I cannot recollect whether it had or not. My attention had not been called to it.

Question. Was the question of jurisdiction raised at all during the trial?

Answer. I have no recollection that it was; and I have no recollection that it was not.

Question. Can you state, briefly, the grounds of the defence which you, as counsel for Mussina, interposed to the plaintiff's claim?

Answer. It would take me some time to reflect and recollect what the defence was.

Question. Did you repose your defence on deficiencies in the plaintiff's title, or on Mr. Mussina's rights?

Answer. One of the grounds of the defence was, that the plaintiff's title was not good.

Question. Do you recollect the particulars of the objection?

Answer. I cannot recollect without taking time to reflect over the whole matter.

Question. Is your recollection of the case sufficient to enable you to state what points were controverted on the trial at which you were counsel?

Answer. I was in the case merely doing the hearing, and cannot now distinctly state them.

Question. Who instructed you as to the defence?

Answer. It was one of the difficulties of our going into the case that we did not know anything about it; and that the case had not been prepared by Mussina.

Question. When you say that the case had not been prepared,

and that you did not understand it, do you mean to say that you were unprepared, and had not been instructed?

Answer. I mean to say that Mr. Mussina's defence in that case had not been as well prepared as it might have been, and that we occupied a disadvantageous position, coming into such a case at the commencement of a hearing.

Question. Prepared as it was, who instructed you?

Answer. I got my information from Mr. Simon Mussina, from Mr. Ballinger, and from the papers in the case.

Question. Was there a judgment of Judge Watrous by default in the Cavazos case?

Answer. I was not in court when the judgment was rendered.

Question. Was the judgment rendered by default, or by consent?

Answer. I presume the record will show that; I understood that Judge Watrous took the case under advisement.

Question. I am asking your knowledge of the case?

Answer. I have no personal knowledge on that subject.

Question. Did you hear anything said, during the hearing of the case, touching any decree that had been consented to?

Answer. No, sir.

Question, (by Mr. Billinghamst.) Were you in court when the case was finally submitted?

Answer. I do not recollect; my impression is I was not.

Question, (by Mr. Clark.) Had you abandoned the case?

Answer. On the arrival of Mr. Howard, I abandoned the case to him.

Question. Did Mr. Potter abandon it also?

Answer I cannot distinctly state whether he did or not.

Question, (by Mr. Craige.) Did you not state awhile ago that you were present at the final hearing?

Answer. Yes, sir; but I do not understand that to mean the last day.

Question. How many days did you remain in the court?

Answer. I cannot state precisely the number of days; it was a long trial.

Question. And you abandoned it when Mr. Howard came?

Answer. I left the case to Mr. Howard when he came.

Question, (by Mr. Billinghamst.) How many days was that before the submission?

Answer. A very short time.

Question. Was it more than one day?

Answer. It may not have been; it was a very short time; I know I was tired of the case.

Question, (by Mr. Clark.) Had Howard prepared himself?

Answer. He was the original counsel, I believe.

Question. Did you make any application to the court to defer the hearing, on the ground of want of preparation?

Answer. I do not recollect making any; my impression is that I came into it after the hearing had commenced.

Question. Who was taking care of Mr. Mussina's interest in the case at that time?

Answer. I cannot state from my personal knowledge.

Question. Were you consulted as to the appeal?

Answer. No, sir; I had nothing to do with it.

Question. When did you understand it was to be decided?

Answer. I do not recollect that I understood anything on the subject, except that the court took it under advisement.

Question, (by Mr. Billingham.) You say you were not present when the court took it under advisement?

Answer. I am stating my impression; I do not recollect, as a fact, that I was present when the case was finally submitted.

Question. Was there any question made in open court, while you were in the case, as to the trial of the suit; are you clear there was no question made as to jurisdiction?

Answer. I am not clear as to that.

Question. Is there any fact in existence then, or now, which, in your judgment, would give room for any argument that the court had not jurisdiction for any reason?

Answer. My information always has been that Mr. Mussina resided in Louisiana, and that the plaintiffs were citizens of Mexico. I have always known those facts.

Question. Would that make the jurisdiction defective?

Answer. It is for the committee to decide that question.

Question. Had that occurred to you before it was suggested to you a few moments ago?

Answer. I always knew it.

Question. Was the point raised?

Answer. I do not recollect whether it was or not.

Question. Do you recollect enough of the case to inform me whether the question of jurisdiction was raised by any plea in abatement in the case?

Answer. I have stated that I do not recollect whether it was raised or not, in any form whatever.

Question. What particular part of Mussina's defence was entrusted to you?

Answer. There was no particular part of Mussina's defence entrusted to me.

Question. Can you inform me of any single one of the controverted points in the case of Cavazos against Stillman and others, on the merits?

Answer. I can tell you the whole general course of the trial.

Question, (by Mr. Chapman.) Was there any defence made for Mr. Mussina?

Answer. Most undoubtedly

Question. What did it consist of, briefly?

Answer. The plaintiffs claimed under an old Spanish grant. There had been a condemnation of four leagues of land by the Mexican government, or some department of it, for the purpose of founding the city of Matamoras; the town tract extended to the left bank of the Rio Grande. Now, if that condemnation had been absolute and valid, then the plaintiffs obviously had no title to the land. One of the

defences was that it had been so condemned. My impression is, that the whole of the land was in the Matamoras town tract. If the condemnation, as I have said, was valid and complete, then obviously the plaintiffs had no title. In answer to that the plaintiffs claimed that it had never been made final and complete. Another reason was, that the price for it had never been paid. There was some further question as to whether it was final and complete. The land was known as the *exidos* of the city of Matamoras. These were held by a Spanish grant or title, about the corresponding value of which in our system there is some dispute; they are not equivalent to our absolute fee. Mussina and the other defendants had purchased several of these; perhaps they had purchased the whole of them—enough to cover the whole town site. My recollection is not distinct as to that. They claimed under them as a positive title; and, in order to fortify their claim, my recollection is that they had located the land with land certificates.

Question, (by Mr. Clark.) Head rights?

Answer. Yes, sir; or bounty land warrants, or land scrip. My recollection is that these were the main issues on the title. But there were other questions occurring in the case: There was a pedigree to be proven on the part of the plaintiffs, and a will; my impression is that there was a will in the case.

Question. It was putting him to the necessity of establishing his title?

Answer. Yes, sir.

Question. What distinct defence was made by Mussina; did he set up any title?

Answer. He had located the land, which was good, if nobody had been there before him; and he had whatever title passed to him by assignment of the holder of the *exidos*, about the possession of which title, under the laws of Texas, there would be discussion and dispute.

Question. Did you regard Mussina as prejudiced by being driven to trial at that time?

Answer. It did not occur to me that he had good ground for declining. I do not recollect, as a fact, that I was in court when the case went to trial; my impression is that I was not. I have no recollection of any good ground why Mussina ought not to have been prepared to go to trial at that time.

Question. Can you state any fact or circumstance tending to show whether Mussina's defence was or was not prejudiced by reason of the collusion of interests between the plaintiffs and Basse & Hoard?

Answer. I have an impression that there was some point—one or two points—in the case where Mussina's preparation of his defence was defective, and to provide for which he had relied upon the other.

Question. Then Mussina, from a reliance upon Basse & Hoard, had failed to be fully prepared at all points, and the collusion between the plaintiffs and Basse & Hoard left him at certain points defenceless?

Answer. I cannot say that he relied upon Basse & Hoard. My impression is that he thought that these facts would be proved by Ballinger; it is a rather vague impression.

Question. Was your client not surprised in finding his co-defendants going over and joining hands with the plaintiffs against him?

Answer. About the fact of surprise I do not know. I do not know how far Mr. Mussina was taken by surprise; I do not know what cause he had to suspect that there was some collusion between Hoard and the other defendants and the plaintiffs. I do not know how long previous to the time when Mr. Hoard was called to trial that he knew facts which made that impression upon his mind; of course the defendants had been in controversy between themselves; I do not know how long.

Question, (by Mr. Chapman.) Within your personal knowledge was there anything to prevent Mussina from having a fair and full trial?

Answer. Nothing at all that I now recollect.

Question, (by Mr. Clark.) Do you happen to know why Mussina did not take an appeal?

Answer. I do not. The committee seem to suppose that I took more interest in this case than I really did; I dismissed the case from my mind at the time, and I have not given it any attention since, unless it was forced upon me.

Question, (by Mr. Cushing.) Had not Mr. Mussina, more than a year before the trial, given public notice of the severance of the interest between him and Basse & Hoard?

Answer. I have no recollection of seeing the notice. I know that they were in controversy about the title.

Question. For how long prior to this trial?

Answer. Some considerable time.

Question. A year or more?

Answer. I cannot say as to the time.

Question. Would Mr. Mussina have relied upon Basse & Hoard, under those circumstances, to make his preparation of defence?

Answer. I cannot say that he ought to have done it.

Question, (by Mr. Ready.) Did he do it?

Answer. I do not know the fact. I recollect that there was a point or two on which the case was not prepared.

Question, (by Mr. Cushing.) Did the fact of the severance of interests between Mussina and Basse & Hoard come up at the trial as a matter of surprise?

Answer. I do not think it did.

Question. Was not the controversy between them known previous to the trial?

Answer. I think it was.

WITNESS. Since I know the point to which my examination with respect to the power of attorney to sell was directed, it has occurred to me to state that it is possible that when the plaintiff's counsel offered said power in evidence, he stated that he was not prepared with a translation of it, and that we waived the translation for the time, with the understanding that it would be furnished, and that it is possible that we reserved finally no exception on the power of attorney, and, in making up the main bill of exceptions, made the

following statement : "Here the plaintiff proved the power of Samuel L. Williams to sell the land in controversy," or words to that effect. I desire further to state, that during the regular session of the legislature of Texas of 1851-'52 and the extra session of 1852-'53 I was absent from the city of Galveston.

Question, (by Judge Watrous.) What questions were raised on the trial of the Lapsley cases in New Orleans?

Answer. I do not know except by information.

Question. Why do you say that the Lapsley cases and the Ufford and Dykes cases depended on the same questions?

Answer. My information was, the plaintiffs in the Lapsley cases claimed under the La Vega title, which was included in the same concession, and under the same power of attorney.

OLIVER C. HARTLEY.

EXAMINATION OF GEORGE W. PASCALL.

THURSDAY, MAY 20, 1858.

Question, (by Mr. Billinghamst.) Where do you reside?

Answer. In the city of Austin, State of Texas.

Question. How long have you resided there?

Answer. I have resided in Austin since March, 1852. I resided in Galveston from May, 1848, up to that time.

Question. Are you a lawyer by profession?

Answer. Yes, sir.

Question. Are you engaged in the practice?

Answer. Yes.

Question. Were you present at the term of the district court of the United States, presided over by Judge Watrous, held at Austin in the fall of 1853-'54?

Answer. Yes, sir; I have been present at every term held by Judge Watrous in Austin.

Question. When was the first term of the district court of the United States held at Austin?

Answer. It was organized there either in November or December, 1851.

Question. Was there any business done at that term?

Answer. I cannot say with regard to general business. I recollect, with respect to some cases in which I was counsel, an arrangement being made with counsel on the other side. I do not think there was much business done. I am inclined to think there was very little business done, because the United States marshal stayed there only for a very short time. A clerk, however, was appointed.

Question. Are you aware of the fact that a number of suits in which John W. Lapsley was plaintiff were on the calendar in the fall term of 1853 or 1854?

Answer. Yes, sir; my particular attention was not called to the suits until I was engaged in some of them.

Question. At what time were you engaged in any of them?

Answer. At that term, 1853 or 1854.

Question. Before the sitting of the court, or at the sitting?

Answer. At the sitting.

Question. By whom were you engaged?

Answer. By Mr. Riley Wallace and Mr. Lewis, to defend some five persons. Mr. Lewis was a member of the legislature, and an attorney. Mr. Wallace was an old acquaintance of mine in Arkansas when I resided there. I fixed the time, because my brother was in the senate at the time, and the conversation took place in my own residence, to which I had just moved. It was in my brother's room that the consultation took place.

Question. Were your clients, or any of them, present at that term of the court?

Answer. Yes; Mr. Wallace came to defend. Mr. Lewis was a member of the legislature, and interested in the case.

Question. As a defendant?

Answer. Either as a defendant or attorney for his brother-in-law, who was a defendant. My stipulations were with these gentlemen.

Question. Did you expect that these suits would be tried at that term?

Answer. I did not. I stipulated for pleading, stating to the gentlemen that I had heard from a private source that Judge Watrous was interested in the cases, and that I supposed they would be transferred. I do not know that it is necessary to mention the sources through which I heard it.

Question. Did you hear it at that term?

Answer. No, sir; before that.

Question. How long before?

Answer. I heard it while the cases were pending in Galveston. It was communicated to me in confidence, and as I was not connected with the cases I did not speak of it.

Question. Was it communicated to you as a private matter?

Answer. Yes; as a piece of private information.

Question. Was it understood that Judge Watrous's interest was secret?

Answer. The person communicating it to me had learned it in travelling out of the State.

Question, (by Mr. Billinghamst.) You stated that you did not expect a trial at the fall term, 1853?

Answer. Well, sir, I should have stated it in this way: I believe that I did not intend that Judge Watrous should try the case without a recusation being entered.

Question. What was done in this case at that term?

Answer. My recollection of any action in this case is limited to a small space. I prepared the pleadings for the defence. I think that I filed the general issue, and handed the special pleas to Mr. Lewis, who is also a lawyer, to copy.

Question. Was there no issue joined in the case in which you were retained?

Answer. We never formally join issue in the system of Texas pleading in a common law sense. My impression is that I put in the general issue, and that there were some special pleas, which I placed in the hands of Mr. Lewis to be copied. I do not know whether they were filed or not. The appearance day in that State is every fourth or fifth day. They had been returned at Austin some time in 1853. This was the autumn or winter of 1853 or of 1854.

Question. You are now speaking of the original cases at Austin, and not the cases transferred from Galveston?

Answer. Yes, sir; I am speaking of the batch of cases commenced at Austin. There were five defendants, if my memory serves me, that were originally sued at Austin. I prepared the pleadings, as I have already remarked. If I give my best recollection, I put in the general issue, and handed out the special pleas to be copied. I do not write a legible hand. I remarked to Judge Hughes, I think, on the appearance day, either excusing myself for not making an issue at all, or for intending to amend, one or the other. He said to me with some earnestness that he should send the whole to New Orleans; that Colonel Taylor had refused to agree on a special judge. Having stipulated in case the cases went to New Orleans that I should not go with them, I did not look after them further, and do not know whether special pleas were filed or not. These are all the facts as they occurred.

Question. Were those cases, commenced in the name of Lapsley against the persons for whom you acted as counsel, called in court at that term?

Answer. I suppose that there were some upon the appearance docket. If we have answers in, or have an understanding that there is to be no injury from not answering, we take no notice of them. I got from Judge Hughes the understanding that the cases would go to New Orleans; and I am pretty certain that I got that understanding on appearance day. My understanding with my clients had been at my own room one or two evenings preceding, and it was based upon my statement to them that Judge Watrous, as I had been told, was interested in the suit.

Question. Did you learn that from Judge Watrous himself?

Answer. I did not.

Question. How many suits were commenced in the name of Lapsley in the court at Austin?

Answer. I do not now know. The number of defendants for whom Mr. Wallace and Mr. Lewis engaged me were five. Whether they were included in the same petition, or whether there were five separate petitions, I cannot state from memory. As I prepared answers separately, probably there were separate petitions. I do not know whether you would say one suit against five defendants, or one suit against each of the five defendants.

Question. Did you appear in these suits after the fall term, 1853 or 1854?

Answer. No, sir ; whatever action was taken was in the transfer.

Question. Have those cases to your knowledge been transferred to New Orleans ?

Answer. They are not now upon our docket. I suppose that they went there. My understanding is that they all went together ; those Mr. Taylor appeared in, and the others.

Question. You speak of the suits Mr. Taylor appeared in ; what suits do you mean ?

Answer. Mr. Taylor appeared in the suits which were returned to Galveston, perhaps as early as 1851. I remember his calling on me at the January term, and stating that he was employed to defend a number of cases up there. I knew him for many years.

Question. You were not interested in that class of cases ?

Answer. Not at all. It was the conversation of a brother lawyer calling in my office, and telling me of his plans. He told me of bringing his children there and making it his headquarters. He mentioned these defences that he had amongst others ; and he mentioned some other cases, the names of which I cannot recollect, which he was to defend in the federal court.

Question. You speak of talking to Judge Hughes about these suits ; when was that ?

Answer. That was in 1853 or 1854.

Question. Did you inform him that you had heard of Judge Watrous' interest ?

Answer. No, sir ; the remark was this, and occurred in this way : I gave some excuse either for not filing the plea on appearance day, or for intending to amend. I had handed the special pleas and possibly the whole to be copied. I gave some excuse of that kind. I had only been retained two days before. Judge Hughes remarked "I will send all the cases to New Orleans. Col. Taylor will not agree to a special judge." That was the language. It occurred between us in the court room in that way.

Question. In open court ?

Answer. It was in open court, but a side bar conversation. I think it was appearance morning. Judge Watrous was sitting.

Question. Was it a talk between the counsel and the court ?

Answer. No, sir ; it was a conversation between ourselves.

Question, (by the chairman.) You say that this conversation occurred in the fall of 1853 ?

Answer. If appearance day was in 1853 it occurred then. If it had gone over to 1854 it was the January term.

Question. It was 1853 or 1854 ?

Answer. Yes, sir ; it was at that term.

Question. You say that you were retained as counsel at that term ?

Answer. Yes, sir.

Question. You had previously heard of Judge Watrous's interest ?

Answer. Yes, sir.

Question. Did your clients know of Judge Watrous's interest ?

Answer. They did not.

Question. You gave them the first suggestion on that subject ?

Answer. The first intimation they had of it I gave them. Mr. Wallace was a gentleman from the country. I had never seen him about Austin before. I had known him years before.

Question, (by Mr. Chapman.) Can you fix the precise day when this communication was made to you, in the first place, of Judge Watrous's interest?

Answer. It was made before I removed from Galveston.

Question. Can you come nearer than that?

Answer. I should think it was in 1851. I was there very little in 1852.

Question. Do you recollect the season of the year?

Answer. It must have been early in the summer, for I was absent during the latter part of the summer. I left Galveston while the Mussina case was on trial.

Question, (by Mr. Billinghamurst.) Were you in Galveston at the April term 1851?

Answer. I was arguing a case in the supreme court of the State up to March, 1851. I listened to a great part of the argument in the Christy cases. General Henderson was counsel, and had come down there. I think that that must have been before April. That argument was in March. If I were to speak from memory of the court in 1852 I should say that it commenced its sittings in January. The legislature were in session. I was engaged in Austin in business before the legislature. I recollect that I left there for Galveston after the 10th of February, 1852. I got to Galveston very soon afterwards. I met General Henderson and Mr. Pinkney Hill in Galveston in 1851, who were there attending to the Christy cases. I had some cases there which probably preceded those cases on the docket, but they had been passed over in consequence of my absence. Theirs came up first, and they occupied a great deal of time. I do not recollect whether I was much about the court afterwards or not.

Question. Do you remember whether there were a number of suits on the docket at Galveston in which Lapsley was plaintiff?

Answer. My knowledge came from Colonel Taylor, who was going there to defend them.

Question, (by Mr. Chapman.) Will you communicate the name of the person who communicated to you that Judge Watrous had an interest in them?

Answer. William Alexander communicated the fact to me.

Question, (by Mr. Craige.) The same who prosecuted Judge Watrous?

Answer. The same one who filed a memorial against Judge Watrous.

Question, (by Mr. Billinghamurst.) Were you at the January term of Judge Watrous's court in 1852?

Answer. Yes, sir. I went down there to try or continue some business involving the Indianola property.

Question. Was it at that term that you saw Mr. Taylor?

Answer. I must have first seen Mr. Taylor at Galveston in 1851.

Question. Did you see him again in January, 1852?

Answer. I have no recollection that I did.

Question. Did you attend Judge Watrous's court?

Answer. I attended Judge Watrous's court long enough to continue what are known as the Indianola cases. I do not think that I tried any business in the court.

Question. Did you hear the Lapsley cases mentioned in court at that time?

Answer. I did not.

Question. Did you hear of any disclosures of interest by Judge Watrous?

Answer. None whatever. I heard nothing about the cases that I now recollect. I do not think that I met Mr. Taylor, or anybody who talked about the cases in any way.

Question. When at Austin, in 1853 or 1854, had you then heard that Judge Watrous's interest in these Lapsley cases was published?

Answer. I could not have heard it; because in this conversation with Mr. Lewis and Mr. Wallace, and my brother, who is my partner, the question was discussed about entering a recusation, if it became necessary. Within two days after that, when I mentioned the fact to Judge Hughes, in reference to the pleadings or excusing myself for not pleading on appearance day, he said that he would send the cases to New Orleans; that Mr. Taylor would not agree on a special judge. Now my own arrangement about a fee having been made with a view that if they went to New Orleans I should not follow them, my interest in them ceased so soon as that announcement was made.

Question. Why was that arrangement made?

Answer. Because it would be utterly inconvenient for me to go to New Orleans to attend to a small branch of a very large case.

Question. Did you communicate that fact to your clients?

Answer. I communicated it to them in that arrangement. The question was discussed how it was to be brought up, if it became necessary.

Question. Are you able to state whether that was in 1853 or 1854?

Answer. It was at the fall term of 1853, or the fall term of 1854. If it was returnable to the December or November term, it was soon after Judge Watrous got there. Men can fix facts by some circumstances. I got into my new residence about that time, and that was in the fall of 1853.

Question, (by the chairman.) I understand that the communication was made to you by Mr. Alexander in confidence?

Answer. Yes, sir. I can state what he said, if there is any consequence attaching to it.

Question, (by Mr. Cushing.) How long before appearance day, in 1853, did you first have a conference with your three clients?

Answer. It must have been within two or three days.

Question. Where did those gentlemen reside?

Answer. Mr. Lewis was a member of the legislature from one of the eastern counties. He was in the legislature at the time. Mr. Wallace resided somewhere on the Trinity river.

Question. How far from Galveston did those two gentleman reside?

Answer. I do not know the distances.

Question. Can you state with some degree of approximation?

Answer. My recollection is, that Mr. Lewis was in the legislature from San Augustine. I was never there, but I presume that it is 300 miles from Galveston. Mr. Wallace's residence was near Waco.

Question. At what time was service made upon those gentlemen in these suits?

Answer. Whether in 1853, I cannot say. I do not know the precise date; but they were served in time for the cases.

Question. Service was made returnable at the November term of 1853?

Answer. Yes, sir; that is my recollection of it.

Question. Are you confident that you attended the court at Galveston in 1852?

Answer. Yes, sir; I am very sure I was there. I do not think that I can be mistaken in the year. It was in 1851 that General Henderson and Mr. Hill argued the case to which I have referred.

Question. Do you recollect transacting any business in the court in 1852?

Answer. I remember continuing the cases of Burnley and others. I think it was then. I can fix the 1852 in this way: what is familiarly known in the country as Peters's colony law, giving 1,700 sections, passed 10th January, 1852, Willy Stewart, my client, in getting that law passed, came down with me in the stage soon after its passage. We arrived in Galveston soon afterwards. The court was then in session.

Question. You say, in conversation with Judge Hughes, reference was made to the refusal of Mr. Taylor to agree to a substitute judge; can you state, with confidence, whether it was not that Mr. Taylor refused to carry out an agreement made for a substitute judge?

Answer. It was a very short conversation, and to repeat the exact language at this time would be difficult. I think the remark was, that Colonel Taylor refused to agree to a substitute or special judge, and that he, Judge Hughes, would transfer the cases to New Orleans.

Question. When you say that the communication made to you by Mr. Alexander was confidential, do you not mean that he himself stated it as confidential?

Answer. Yes, sir; he stated it to me as a thing not to be spoken of.

Question. It was on his declaration to you that you characterized it as a confidential declaration?

Answer. Yes, sir. It has been spoken of frequently since, in the presence of others.

Question. How long was that before he presented a memorial asking for the impeachment of Judge Watrous?

Answer. It must have been after. Mr. Alexander's memorial for the impeachment of Judge Watrous, if I recollect it, was presented in January, 1851.

Question. Presented in 1851, or dated in 1851?

Answer. It was presented by Mr. Howard in 1851. It is very difficult to speak from memory, but such is my recollection.

Question, (by Mr. Craige.) What time did he make that communication?

Answer. After he returned from Washington.

Question. Did you appear as counsel in that matter?

Answer. I have not been here in eleven years before this time.

Question, (by Mr. Cushing.) Did you assist Mr. Alexander as counsel or otherwise in reference to that first memorial?

Answer. No, sir; I was not in town. I did not know that it was his intention to present it until it was sent off.

Question. Did you not commence to prepare, and leave unfinished, an extended statement of matters included in that memorial?

Answer. Yes, sir.

Question, (by the chairman.) Did Mr. Alexander come here on one or two occasions?

Answer. Reflecting on what I have heard, I do not think Mr. Alexander came here the same year he preferred his first charges. Whatever he told me was after he returned, and the other matters were investigated here.

Question, (by Mr. Ready.) Do you remember that the communication was made to you in your office?

Answer. Yes, sir.

Question. At your office in Galveston?

Answer. Yes, sir.

Question. At your office in Galveston after 1851?

Answer. My office was in Galveston after 1851. Judge Franklin and myself had our offices together. The principal part of my books were not removed from there until the winter of 1852 or 1853. Whenever I went to Galveston I stayed there. I had a bed in Judge Franklin's office.

Having heard my examination read, I wish to say, that with reference to the time when the conversation between myself and Judge Hughes took place, I cannot be positively certain whether it was at the fall term 1853, or 1854. It was in the court room in the Lammemoor house; but I am not certain when the court was first held there.

With reference to my going to Galveston in February, 1852, I was correct; but the court had adjourned before I got there, and I was in error in saying I attended the federal court; and the services rendered in the Burnly cases to which I referred, was the argument in the case of Bissel and Haynes in the supreme court, involving the same questions, and about the injunction granted by Judge Buckley.

As to the conversation with Mr. Alexander, it may have been before Mr. Alexander returned from Washington and after his return from some other visit out of the State. It must have been, I should suppose, before the examination of his (Alexander's) memorial before the House of Representatives.

In justice to all parties, I ought to add, that I was prepared to believe it, because I had known that in the purchase of the La Vega grant, Judge Watrous had drawn a draft upon Lapsley, which passed

through my hands, as attorney of Mrs. St. Johns. I associated this circumstance with the statement which I heard.

GEO. W. PASCHAL.

EXAMINATION OF HON. J. P. BENJAMIN.

TUESDAY, MAY 25, 1858.

Hon. J. P. Benjamin, sworn.

Question, (by Mr. Taylor.) Were you employed in the appeal from the district court of Texas in the case of Shannon *vs.* Cavazos?

Answer. I was.

Question. Have you any recollection who were the parties appellant, and whether there were any parties not included in the appeal?

Answer. Perhaps I had better, in a few words, narrate all that I do know about it. I was spoken to in New Orleans sometime, I think, in the summer of 1856, first by Mr. Benjamin Florence, as agent of Simon Mussina, to argue an appeal in the Supreme Court of the United States. He said that he would send to me Mr. Jacob Mussina, a brother of Mr. Simon Mussina, who would make some arrangement with me about the fees. Mr. Jacob Mussina called on me. I told him that it was impossible for me to make any arrangement about fees until I saw the record. It was then agreed that when I came to Washington he would send me the record. He said that I would find his brother Simon here, and that I could make an arrangement about the fees with him. The record was sent to me. It made an enormous bulk of manuscript. It was impossible for me to see what there was in it, in order to arrange for fees, until it was printed; but I looked at the process by which the appeal was brought up, and found that the decree was a decree against several joint defendants, and that the appeal was in the name of one alone, by the name of Shannon. I told Mr. Mussina that that appeal would be dismissed immediately. He asked me whether there was any way of mending it. I then examined the decisions of the Supreme Court on the subject, found that the five years were not out, and directed him to send instructions to his counsel at Galveston to take the necessary steps for the purpose of having the remaining defendants summoned to join in the appeal, or to decline to join in it, which I understood, under the rule of the Supreme Court, was sufficient. The instructions, as I learned, were sent some time afterwards. I received a copy of an affidavit from Mr. Atchison, with a statement that he had applied to Judge Watrous in chambers; that the judge had asked him to make the application in open court; that he had renewed the application in open court, but that the judge had declined to give the order unless the opposite counsel were present; and that the judge had deferred it, so that

the time of five years had elapsed. On receiving this, I drew up an affidavit, which will appear in the papers below, which was signed by Mr. Mussina, and applied for a mandamus, intending to get an order from the Supreme Court, directing the judge to grant an order for the appeal *nunc pro tunc*. The mandamus failed on the response of the judge, which substantially denied the merits of the application. I made no effort to make any further proof, or to controvert the judge's statement in his return, because I understood from the clerk that, by the practice of the Supreme Court, it did not allow a question of fact to be raised on the return of any of the judges on a rule *nisi* for *mandamus*, but took the judge's return as absolutely true in relation to the facts. The appeal was dismissed.

Question. When did you state that you were engaged, or spoken to, by Mr. Mussina in New Orleans?

Answer. Before coming on here in November, 1856.

Question. When did you make the examination in Washington so as to give him the opinion that it was necessary to proceed again?

Answer. I cannot tell; my memory is not good for dates. I had been here some time before I received the manuscript record; and as soon as I examined that I gave him the information I have stated.

Question. Did you file the record yourself?

Answer. I carried it to the court to be filed. I did not furnish the security which is required. I put it into the clerk's hand, but the technical filing of the record takes place when the security is given.

Question. What was your understanding; was it an appeal, in which Mussina was interested as well as the others?

Answer. It was for Mussina that I was employed. I did not consider myself employed for anybody else.

Question, (by Mr. Billingham.) In your original retainer was your attention called especially to the appeal, to see whether it was regular or not?

Answer. Not at all. I was asked merely to argue Mr. Mussina's appeal in Washington, without knowing anything of what it was. I will state that there had been a great deal of litigation going on in New Orleans between Mr. Mussina and William Allen and others, and there was a heavy suit for damages. When I was first spoken to I supposed that it was in relation to that suit, and I declined having anything to do with it. Then I was told by Mr. Florence that it was not so, but that it was a suit in New York. I said that I did not practice in New York, and could have nothing to do with it. He said then that he did not know that he exactly knew the matter, and that he would send Jacob Mussina to talk to me about it. I learned that it was an appeal from the district court of Texas to Washington.

Question. You understood that Mr. Mussina's matter was appealed?

Answer. I knew of none other. I did not know that there were any other parties in it until I looked at the record.

Question, (by Mr. Taylor.) The record I hand you was the one filed in that case?

Answer. Yes, sir; the record filed was in the Shannon case.

J. P. BENJAMIN.

The following receipt was exhibited on Mr. Benjamin's examination, and was admitted in evidence, with the accompanying statement of Mr. Middleton, deputy clerk of the Supreme Court United States :

WASHINGTON, *December* 15, 1856.

Received of S. Mussina, esq., two hundred dollars as surety for fees, under rule 37 of Supreme Court United States, in the case of *Jacob Mussina et al.*, appellants, *vs.* Don Rafael Garcia Cavazos *et al.*, appellee—No. 210 of December term, 1856.

WM. THOS. CARROLL,
per D. W. MIDDLETON,
Deputy Clerk.

MAY 25, 1858.

I did not look into the record at the time of writing the within receipt. The title of the case was adopted from Mr. Mussina's representation of it at the time he handed it to me to be filed. The case is No. 74 on the docket of December term, 1857, and entitled "*Patrick C. Shannon, appellant, vs. Rafael Garcia Cavazos and wife et al.*"

D. W. MIDDLETON, *Deputy Clerk.*

TUESDAY, MAY 25, 1858.

James S. Holman, recalled.

Question, (by Mr. Cushing.) Were you examined as a witness before the committee of the House of Representatives charged with the consideration of the memorial of William Alexander, praying for the impeachment of Judge Watrous?

Answer. Yes, sir.

Question. At what time was that?

Answer. I think that it was in 1852.

Question. Please state the season of the year if you remember it?

Answer. I cannot remember it.

Question. Were you present from time to time during the sessions of that committee?

Answer. Yes, sir.

Question. Did any discussion take place before the committee in reference to Judge Watrous's interest in the Brazos lands?

Answer. When the question was brought up the remark was made by Mr. Marshall, of Kentucky, and by Mr. Venable, of North Carolina, that Judge Watrous had as much right to buy land as anybody else, and it was thrown out. That I believe was the amount of it.

Question. Do you remember whether any testimony was offered on the subject of that purchase by Judge Watrous?

Answer. If there was it was not taken.

Question, (by the chairman.) Was any evidence offered to that point by either party?

Answer. I only remember that the question came up and was ruled out; and that the remark I have mentioned was made by the two gentlemen to whom I have referred.

Question. Was any evidence offered?

Answer. I think so, or the remark would not have been made.

Question, (by Mr. Chapman.) From whom did this charge first proceed that Judge Watrous was interested in the Brazos lands?

Answer. I think from Mr. Alexander.

Question, (by Mr. Billinghamurst.) By whom did he offer to prove it?

Answer. I do not know.

Question, (by Mr. Chapman.) Was this about the time that you loaned \$200 to be used for the institution of suits in Texas?

Answer. I cannot say whether or not.

Question. Reflect on it?

Answer. I cannot recollect.

Question, (by Mr. Taylor.) Was it at the time you were before the committee as a witness?

Answer. I cannot recollect.

Question, (by the chairman.) You seem to recall distinctly what was said by Mr. Marshall and Mr. Venable about the right of Judge Watrous to purchase land. Cannot you remember who was offered as a witness to prove that interest?

Answer. I do not think that anybody was. I do not remember if there was.

Question. Do you know or not whether any evidence was offered for the purpose of proving that that interest existed in Judge Watrous?

Answer. I do not remember that there was.

Question. Was this discussion during the session of the committee?

Answer. Yes, sir.

Question. Was it a pretty full committee?

Answer. I am not able to say whether it was a full committee or only a half committee.

Question. What witness was under examination at that time?

Answer. I do not remember.

Question. Were you under examination?

Answer. I cannot say whether it occurred on my examination or not.

Question. Did you have free access to the committee when you were not under examination?

Answer. Yes, sir.

Question. At the time other witnesses were being examined?

Answer. Yes, sir.

Question, (by Mr. Chapman.) Were you in Washington in 1851?

Answer. Yes, sir.

Question. And in 1852?

Answer. Yes, sir; and in 1853, and every year since, I have been backwards and forwards between Texas and here and New York.

Question, (by Mr. Chapman.) You say that Mr. Alexander brought up the charge of Judge Watrous's interest in the Lapsley purchase?

Answer. That is my recollection.

Question. Was Mr. Alexander present when this was talked over by the committee?

Answer. Yes, sir.

Question. Was Judge Watrous?

Answer. Yes, sir. I think that both were present.

Question. Did Judge Watrous make any reply to this statement by Mr. Alexander?

Answer. I do not recollect whether he did or not. I think Mr. Marshall, of Kentucky, and Mr. Venable, made the reply I have stated.

Question. You think that Judge Watrous made no reply when Mr. Alexander proposed to prove his interest in that land?

Answer. I do not think that he did. Never expecting to hear of the matter again, I did not take particular notice of the circumstances.

Question. Was Judge Hughes here during that investigation?

Answer. Yes, sir; I believe that he was.

Question. Do you recollect meeting Judge Hughes here in 1851 and 1852, at any time when the investigation of the House committee was not going on?

Answer. I have been in the habit of meeting Judge Hughes here so frequently that I cannot fix particular dates for particular things.

Question. He was here at the time the loan was made by you?

Answer. Yes, sir.

Question, (by Mr. Billingham.) You recollect that Judge Watrous's interest in the Brazos lands was spoken of in the committee room?

Answer. Yes, sir. They were known as the Waco lands.

Question. Were any suits about that land mentioned before the committee?

Answer. Not that I remember. If there was any mention of them, I have no recollection of it.

Question, (by the chairman.) Then I understand you that the point presented to the committee was, that he had simply purchased an interest in the Waco or Brazos lands?

Answer. Yes, sir.

Question, (by Mr. Evans.) Are you not interested in a large suit pending in Judge Watrous's court at Galveston?

Answer. If I ever had a suit in his court I do not recollect it.

Question. Are you not interested in a suit now pending there?

Answer. I have no recollection of it. If I am I do not know it.

Question. Do you recollect of a suit in which some property was involved which you claimed at one time?

Answer. Yes, sir; I now recollect to what you refer.

Question. You owned that property at one time?

Answer. I never owned it, although it is in my name.

Question. It was sold under an execution?

Answer. Yes, sir.

Question. And it is now sought to recover it by your testimony in that court?

Answer. Yes, sir; they took my deposition.

Question, (by Mr. Cushing.) What is the title of the case, so far as you remember, in which you have been a witness before the district court at Galveston?

Answer. It is the case of Baldwin, of New York, against some parties in Texas; I do not remember their names.

Question. Have you any interest in that case?

Answer. I have not.

Question, (by the chairman.) Have you ever had any interest in it?

Answer. I have never had.

Question, (by Mr. Ready.) What is it about, property or money?

Answer. Real estate.

Question, (by Mr. Billinghamurst.) Was it your property?

Answer. No, sir; I will explain: It was property conveyed to me for Mr. Baldwin, of New York, during the existence of the republic of Texas, when aliens could not hold land. In 1840 I was indebted to McKinney & Williams about \$2,500; I had a bond and mortgage to about the same amount, which I placed in the hands of a lawyer or lawyers to collect for McKinney & Williams. They had sued me, and the judgment had gone against me, and Mr. Baldwin's property was sold as belonging to me.

Question, (by Mr. Billinghamurst.) That is the suit referred to?

Answer. It is the suit where Mr. Baldwin is trying to get his property back.

Question, (by the chairman.) When did that judgment go against you?

Answer. Perhaps in 1840.

Question. When was the property sold?

Answer. I cannot say; I did not know it for several years afterwards?

Question, (by Mr. Billinghamurst.) Does that property stand in your name?

Answer. No, sir; I reconveyed it to Mr. Baldwin, and he has sued for it in the federal court at Galveston. I thought that I had fully paid my debt.

Question, (by Mr. Cushing.) What is the nature of this property?

Answer. Town lots.

Question. Where?

Answer. In Galveston.

Question (by Mr. Evans.) Did I understand you to say that you had free access to the committee room during the investigation?

Answer. Yes, sir; the doors were not closed.

Question. Were you generally in attendance during the trial?

Answer. Yes, sir; I was there often.

Question. Was Joseph Williams present there?

Answer. I do not remember.

Question. Was he not frequently before the committee with you?

Answer. I think so ; anybody went in the committee room that wanted to, and I have no doubt that he did.

MAY 26, 1858.

Mr. Holman having heard his testimony read over, said : In speaking of a reconveyance of property to Baldwin, I do not know whether I did or not reconvey the property that was sold under the execution, and to which reference is made in the examination ; I rather think that I did not. I reconveyed a very large amount of property to him, which I held in trust for him.

J. S. HOLMAN.

APPENDIX.

Trust deed from John C. Watrous to N. B. Yard.

Know all men by these presents, that for and in consideration of the sum of ten dollars to me in hand paid, the receipt of which I acknowledge, and for other good and sufficient considerations me hereunto moving,

I, John C. Watrous, party of the first part, have bargained and sold, and do hereby bargain, sell, alien, confirm, and convey unto N. B. Yard, party of the second part, all my interest in the tract of eleven leagues of land, be the same more or less, granted by the government of Coahuila and Texas to Tomas de la Vega, situated on the east bank of the Brazos river, in the county of McLennan and State of Texas ; and for a more full and accurate description of said land reference is hereby made to the grant to said Tomas de la Vega, on file in the General Land Office. My interest in the said tract of land is the equal undivided one-fourth part thereof, and the other joint owners with me are : Thomas M. League, John W. Lapsley, T. B. Goldsby, W. Plattenberg, Thomas J. Frow, and James L. Price ; the respective interests of said parties are evidenced by an indenture, signed by all said parties and myself, of which I hold one of the originals, executed on the 9th day of July, 1850, and proved by a subscribing witness thereto before a notary public of Galveston county ; said indenture shows certain sales which had previously been made of a small part of said lands, and is hereby referred to for greater certainty as to the terms and considerations thereof.

To have and to hold all my interest in the said tract of land unto the said N. B. Yard, and I bind myself to warrant and defend the title thereof unto him against all claims whatever.

But this conveyance to the said Yard is for the following uses, and subject to the following trusts and conditions :

Whereas I am, by virtue of two certain judgments in the Galveston district court and otherwise, indebted to George Butler, surviving partner of the firm of George Butler & Brother, the full amount of my said indebtedness being, on the 15th day of February, 1857, twenty-four thousand dollars, to bear interest at the rate of ten per cent. per annum from that date, on which the said Butler has granted indulgence until the 1st day of March, 1859.

Now the object and intent of the foregoing conveyance to the said N. B. Yard is to secure the payment of the said debt to said Butler by means of the said land. And for that purpose the said N. B. Yard is to hold the said interest of the said Watrous in said land precisely as the said Watrous now holds it—that is to say, the legal title to

the whole of the said eleven leagues tract unsold is in the name of the said John W. Lapsley, and sales can be made by consultation and agreement of a majority of the parties interested, the said Lapsley then being the person to make conveyance.

And the desire and object with which this conveyance is made is that opportunities for sale within the next two years may occur at fair and reasonable prices, to enable my said debt to said Butler to be thereby discharged. The said Yard, as the holder and representative of my said interest in said land, shall be consulted with reference to all sales or other arrangements respecting said lands, and shall have the same voice therein which I now possess by virtue of my said one-fourth interest; and the one-fourth of all the proceeds of any sales which may be made from this until the said 1st day of March, 1859, shall be paid over to the said Yard, who, after reserving for and paying over ten per cent. of said one-fourth to me, said Watrous, shall pay over the entire balance of said proceeds to said Butler, to be applied to his said debt, whether said proceeds be in cash, or in notes or obligations given for time sales; it being, however, at the option of said Butler to accept notes running beyond the said 1st of March, 1859.

Should my said debt to said Butler not be fully paid and satisfied by means of such sales, and the receipt of my said interest therein, by the 1st day of March, 1859, then at any time thereafter the said N. B. Yard is hereby fully authorized and empowered, by himself or any attorney to be by him appointed, (for which appointment full power is here given to him,) to sell at public sale in the said town of Waco and county of McLellan, before the court-house door, after giving thirty days' notice by advertisement in the newspaper in that county, should there be any, or such other advertisement as he may think sufficient, all my remaining interest, being the one-fourth, as aforesaid, which shall be unsold, of said eleven-league tract of land, to the highest bidder for cash, and apply the proceeds of such cash sale in full to the payment of said debt to said Butler, and make valid conveyance to the purchaser or purchasers; said sale to be made either of my entire interest in one parcel, or in different parcels, as the said Yard or his attorney may deem best for the purposes of a sale at the best price.

It is further provided that the ratification of this conveyance by the said John W. Lapsley shall be obtained within sixty days. It being understood, however, that a portion of the purchase money for the said interest of said Watrous, say about two thousand dollars, remains due by said Watrous to said Lapsley, and that said purchase money is the elder and preferred lien on said land, and shall be first paid or secured out of any sales which may be made. The said Lapsley will express in his assent hereto the amount of purchase money remaining due.

This conveyance also embraces the interest of said Watrous in and to the twelve thousand acres of land certificates, scrip, and warrants mentioned in the said instrument of the 9th of July, 1850, in like manner and under same terms and conditions with said land.

The commissions of the said N. B. Yard shall be two and a half per cent. on the amount of any public sales made by him under this conveyance, and one-half of one per cent. for his receipts and payment of money, trouble, &c., in all private sales which may be made, which said last commissions shall be deducted from the per centage reserved to said Watrous on such private sales.

Given under my hand and seal, (using a scroll for seal,) this 19th day of March, 1857.

JOHN C. WATROUS, [SEAL.]
GEORGE BUTLER. [SEAL.]

Witnesses at request of Watrous and Butler—

W. P. BALLINGER,
T. J. LEAGUE.

Having the entire legal title of the land mentioned in the foregoing conveyance, and as the holder of the same, I hereby consent to, and ratify said conveyance on the following terms and conditions: that my lien for the purchase money due from said Watrous, to wit, the note hereinafter specified, and a pro rata portion of all charges and expenses incurred and to be incurred in relation to said lands in the employment of attorneys and consellers to attend to the litigation pertaining to said lands, or the title thereof, and in the employment of agents in relation to the lands, and business connected therewith, and surveyors, and all other costs and charges I may have incurred or may incur in relation to said lands, including taxes, shall be retained by me out of the first proceeds of said lands; that is to say, out of the said Watrous's portion thereof. The said Watrous, under his agreement with me, being chargeable with one-fourth part of all costs and charges of every kind which I may have incurred or may incur in relation to said lands. And I having, by the terms of said agreement, a lien on his interest in said lands for the proportion of said costs, charges, and expenses with which said Watrous is chargeable, as well as for the purchase money, evidenced by a note made to me jointly by said Watrous and Thomas M. League, for forty-five hundred and thirty-two dollars, dated July 9th, 1850, payable five years after date, with interest from date, interest specified being eight per cent. per annum, the legal rate of interest of the State of Alabama, where said note was made; no part of said note or interest having been paid.

The understanding with which I assent to and ratify said conveyance being, that I shall lose no lien thereby, which without such conveyance I would or might have on the said Watrous's interest in said lands for any debt due to me from him, or any charges or expenses incurred about said lands, or any matter or thing pertaining thereto. And, further, my consent to said deed, and ratification thereof, is subject to all claims in law and equity which Thomas J. Frow may have and assert, under and by virtue of an instrument in writing, signed by the said Watrous, in the words and figures following, to wit:

"SELMA, November 7, 1856.

"Whenever any money comes to your hand, more than that which is necessary to pay the debt which I owe to you for any of the purchase of the La Vega tract of land, please pay it to Mr. Thomas J. Frow, whatever the amount may be.

"Yours, truly,

"JOHN C. WATROUS.

"JOHN W. LAPSLEY, ESQ."

"February 20, 1857.

"Said instrument was presented to me by said Frow, on the 20th of February, 1857, and I then wrote upon it as follows: *Accepted*, provided that Judge Watrous' proportion of the expenses, incurred and to be incurred, in relation to the land, shall be also retained by me.

"J. W. LAPSLEY."

I have not the data at this time to ascertain the amount of charges and expenses incurred in relation to said lands, but from such data and information as I have, estimate them at about four thousand dollars up to the present time.

Given under my hand and seal this sixth day of May, eighteen hundred and fifty-seven.

JOHN W. LAPSLEY. [SEAL.]

THE STATE OF ALABAMA, }
Dallas county. }

I, Thomas G. Rainer, judge of the probate court, in and for the county aforesaid, which court is a court of record of said State, hereby certify that John W. Lapsley, a citizen of said county, who is known to me, appeared before me this day and acknowledged that he executed the annexed deed or instrument under seal purporting to be signed and sealed by him, voluntarily, on the day the same bears date.

In testimony whereof I have hereunto subscribed my name and [L. s.] affixed my official seal at office, this eighth day of May, 1857.

THOS. G. RAINER,
Judge Probate.

THE STATE OF TEXAS, }
County of Galveston. }

I, Edward T. Austin, a duly commissioned and qualified notary public for Galveston county, do hereby certify that I have carefully compared the copy hereto attached, with the original in the possession of George Butler of Galveston, and that the said copy is a true copy, verbatim et literatim, of the said original.

Given under my hand and notarial seal at office, in Galveston, this [L. s.] eighteenth day of December, A. D., 1857.

EDWARD T. AUSTIN,
Notary Public, Galveston county, Texas.

Commission to take the testimony of Tomas de la Vega, and the Custodian of the Archives at Saltillo.

Circuit court of the United States, for the 5th judicial circuit, holding sessions in and for the eastern district of Louisiana :

To the consul or vice-consul of the United States at Saltillo, Mexico, or to any judge or justice of the peace, or to any officer exercising similar functions :

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you, that you call and cause to come before you, Tomas de la Vega and José Cosme de Castaneda, and them duly examine on oath, touching and concerning certain matters and things in a case now depending in the said court, wherein John W. Lapsley is plaintiff and D. R. Mitchell and Warren and others are defendants, being ten cases numbered on the docket 2,453, 2,454, 2,455, 2,456, 2,457, 2,458, 2,459, 2,460 2,461, and 2,462, and the same examinations so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence, on the trial of said cause and send also this writ.

Witness, the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, at the city of New Orleans, [SEAL.] this 17th day of A. D. 1856, and 81st year of the Independence of the United States of America.

J. W. GURLEY, *Clerk.*

(Endorsed.)

Filed and opened in open court, by order of Court, this 10th day of February, 1857.

Annexed interrogatories and marshal's return.

JOHN LAPSLEY,	}	No. 2,458.
vs.		
D. R. MITCHELL and WARREN,		

Circuit court of the United States for the fifth circuit and eastern district of Louisiana.

Interrogatories to be propounded to Thomas de la Vega and José Cosme de Castanada, secretary of the corporation of Saltillo, Mexico, or Ayuntamiento of Saltillo, or the keeper of the archives at Saltillo, from which the annexed copy of a power of attorney, purporting to be given by Thomas Vega to Samuel M. Williams, purports to have been taken ; the answers to which are to be used on behalf of the defendants in the above entitled suit, and also in behalf of the defendants in the various suits of John Lapley vs. James Barton, David Barton, John Barton, — Brown, Chas. Duncan, Wm. Delk *et als.*, James Marlin, G. Bernard, David Heffington, and William Long, numbered, respectively, on the docket of this court 2453, 2454, 2455, 2456, 2457, 2459, 2460, 2461, 2462.

Interrogatories to be answered by Thomas de la Vega.

1. What is your age and occupation?
2. Are you acquainted with Samuel M. Williams? If yea, how long have you been acquainted with him?
3. Examine the annexed copy of power of attorney, and state whether or not the original, of which that purports to be a copy, was executed by you? If yea, when and where? Did you, or not, ever authorize and empower Samuel M. Williams to sell the land referred to in said document?
4. How have you always signed your name? Have you been in the habit, at any period of your life, of signing your name Thomas Vega? Have you ever signed your name Thomas Vega? If yea, when and where?
5. Did you, or not, ever execute the original power of attorney, of which the annexed document, marked , purports to be a true copy? Is there any original of said copy in the archives at Saltillo?
6. If you answer that you executed the original of said copy, is the same in full force at this time? If not, state when and how the same was revoked.
7. Was there any other person except yourself living in Saltillo or Leona Vicario at the date of said document; say? If yea, who was he, and what was his age and occupation at the time?
8. If you know anything further about this matter, you will please state the same fully and in detail?

CHARLES B. SINGLETON,
Of counsel for defendants.

Interrogatories to be propounded to José Cosme de Castanada, or the keeper of the archives at Saltillo, where the original of the document A would be found, if any such document really existed.

1. Are you the keeper of the archives at Saltillo, where the original of the annexed document, marked , would be deposited, if any such existed?
2. Have you examined the archives for the original of said document? If yea, have you found any such original? If there is such an original in the archives, you will please annex a true copy thereof properly certified to your answers.
3. Are there any powers of attorney among the archives, which are under your custody, given by Thomas Vega, or Thomas de la, to Samuel M. Williams? If yea, you will annex copies thereof to your answers, properly certified.

CHARLES B. SINGLETON,
Of counsel for defendants.

NOTICE TO PLAINTIFF.

Circuit court of the United States, fifth circuit and eastern district of Louisiana.

2,453, John W. Lapsley *vs.* James Barton ; 2,454, John W. Lapsley *vs.* David Barton ; 2,455, John W. Lapsley *vs.* John Barton ; 2,456, John W. Lapsley *vs.* ——— Brown ; 2,457, John W. Lapsley *vs.* Charles Duncan ; 2,458, John W. Lapsley *vs.* D. R. Mitchell and Warren ; 2,459, John W. Lapsley *vs.* William Delk *et als.* ; 2,460, John W. Lapsley *vs.* James Marlin ; 2,461, John W. Lapsley *vs.* George Barnard ; 2,462, John W. Lapsley *vs.* Heffington & Long.

CLERK'S OFFICE,
New Orleans, September 11, 1856.

The plaintiff in the above entitled suits is hereby notified that the defendants therein, through their counsel, have this day applied for a commission and filed interrogatories to be propounded to Thomas de La Vega and to José Cosme de Castaneda, secretary of the corporation of Saltillo, Mexico, &c., &c., witnesses, whose answers will be offered in evidence, on the part of the said defendants, in the above enumerated cases. The plaintiff will please file in this office his cross-interrogatories within three days from the service hereof, otherwise the commission will be issued and executed without them.

Attest:

J. W. GURLEY, *Clerk.*

MARSHAL'S RETURN.

Received September 11, 1856 ; and, after diligent search and inquiry, I could not find the said John W. Lapsley within the district, and I ascertained the fact to be that the residence and domicil of the said John W. Lapsley is not within this district, but is in the State of Texas ; and further, that the said John W. Lapsley has not any attorney or agent in this district, on whom service of this notice can be made : Whereupon, at the request of Charles Singleton, attorney for defendants, I did, on the 12th September, 1856, post a copy of this notice on the front door of the court-house, on Royal street, New Orleans, being the principal entrance to the court room in which the circuit court of the United States, fifth circuit and eastern district of Louisiana is held.

Returned April 12, 1856.

EMILE MARY,
Deputy United States Marshal.

Power of attorney referred to in foregoing interrogatories.

SELLO SEGUNDO PARA EL BIEN TO, [L. S.] DOCE REALES, DE 1832 Y 1833.

En la ciudad de Leona Vecavio a los cinco dias del mes de Mayo, de mil ochocientos treinta y dos años, ante me el ciudadano Juan

Gonzales regador del ylustre ayuntamiento de esta ciudad y alcalde segundo en turno en ella y su jurisdiccion por enfermedad del propietario que actuo receptovia a falta de escrivano que no to hay en el termino de la ley, y tertigos instrumentales que al fin se nominaran : paveciéron presentés los ciudadanos licenciado José Maria Aguirre, Thomas Vega, y Rafael Aguirre, vecinos de esta ciudad a quienes doy fé, conosco y dijeron: que en la mas bastande forma que haga lugar en derecho otorgan que dan y confieron todo su poder tanto quanto se requiera y en derecho sea necesario, a Don Samuel May Williams, vecino de la villa de Austin, especial, para que a nombre de otorgantes, y en representacion de sus propias personas, derechos y acciones tan luego como lo permita la ley de colonizacion de viente y cuatro de Marzo de ochientos veinte cinco, pueda proceder y proceda segun su voluntad a la venta de los sitios de tierra que en catorce de Junio de mil ochocientos treinta les concedio a los otorgantes el supremo gobierno de este estado para cuyo fin podra el dicho apoderado otorgar la venta ó ventas de los enunciados sitios en la persona ó personas que le parezca ya sea al contado ó al fialdo al plaso ó plasos que le combenga perciviendo las cantidades de pesos en que contratane los mencionados sitios que para todo cuanto necesité y sea necesario le den y confieron el presente poder sen limitacion ninguno : queirendo como quieren los otorgantes que no por falta de espresion ——— clausula, requisito ó condicion que aqui no se espresa dejé de obrar esta poder todos los fines á que se conferido puestodo quanto se necesite lo dan por subscrito insertado como si efectivamente lo estubiera, con libre, franca y general administracion y facultad de enjuiciar jurar y que lo puedo substituir, velocar los substitutos y nombrar otros de neuvo, que todos veleban en forma ; y à haber por firme todo lo que en virtud de este poder se heciere otorgane y practicare se obligan los otorgantes con su personas y bienes presentes y futuros, y con ellos se sometan al fuero y jurisdiccion de los señores juezes y justicias que de su causas y negocios puedan y deban conoser para que los compelan y apremien por todo vigor de derecho y como sé fuere por sentencia pasada en autoridad de cosa juzgada consentida y no apelada que por tal la reciben : renunciaron su propio feuro domicilio y vecindad y todas las leyes que les puedan favorisca con la general informa. Asi lo ortogaron y firmaron siendo testigos los cindanos Antonio Espenosa, Rafael de Leon y Francisco de la Fuente y Gonzales, presentes, y vecinos de esta ciudad ; doy fée.

JUAN GONZALES,
JOSE MARIA AGUIRRE,
TOMAS VEGA,
RAFAEL AGUIRRE.

Sacose de su original con quien concuerda hoy dia de su otergamiento. Va en dos fojas utiles del papel del sello segundo, conforme a la ley de todo lo que, Yo, el juez que subscribe con los de mi asistencia segun derecho doy fée.

JUAN GONZALES.

Assa : JOSE NARZO. ORTIZ,

J. MANUEL MORAL.

ANNEXED.

UNITED STATES CONSULATE,
Matamoras, Mexico, October 14, 1856.

To any notary public, or other legally authorized officer, by the laws of the United Mexican States, to take evidence in writing, to be used in the courts of record of Mexico, know ye: That I, Samuel P. Armstrong, United States consul at the port of Matamoras, do hereby authorize and empower you to execute, according to law, the commission herewith sent from the "United States circuit court," No. 2,458, &c., &c., in the case of "John W. Lapsley *vs.* Mitchell, Warren, *et als.* defendants," by summoning Thomas de la Vega and José de Castaneda before you, in Saltillo, Mexico, if therein found, or any other persons referred to in said commission, to give evidence in relation to the matters and things therein relating. Whereof, you will thereafter affix your signature or signatures, seal or seals of office, so that the said commission, when executed, may be made a part of the record of the said United States circuit court.

And you are hereby authorized and fully empowered by me to perform all such needful things that may accord with the laws of the United Mexican States as shall be proper in the execution of the afore said commission.

In witness whereof I have hereunto set my hand and affixed my [SEAL.] seal of office, on the day and date first before written.

SAM'L. P. ARMSTRONG,
United States Consul.

[Translation.]

JOHN W. LAPSLEY	} Circuit court of the United States,
<i>vs.</i>	
D. R. MITCHELL & WARREN.	

fifth circuit, and eastern district of Louisiana.

There appears, first, Spanish translation of "interrogatories to Thomas de la Vega and José Cosme de Castaneda," &c., annexed to commission of 17th —, 1856, followed by certificate, in these words:

Citizen Thomas Crescencio Pacheco, notary public, with an office in this city, I certify in complete legal form: That this day there has appeared before me Mr. D. Manuel F. Valdez, and that under the oath which I administered to him, according to law, he said that the foregoing document which contains an interrogatory of eight questions, to Thomas de la Vega, and another of three questions, to D. José Cosme de Castaneda, all written in the Spanish language, is a faithful and literal translation, made by the deponent, of the first of three original documents which he brought before me; (the) which is written in English, registered in these words: "Circuit court of the United States," &c., and has at the close a certificate of the clerk of said court. Which declaration I attest; and further proof thereof, I sign

and seal this process verbal, (delegencia,) with the aforesaid translator, in the city of Monterey, capital of the State of Nueva Leon and Coahuila, on this 19th day of October, 1856.

MANUEL F. VALDEZ. [SEAL.]

T. CRESCENCIO PACHECO,
Notary Public.

Second. Copy, Spanish, of document or power of attorney, annexed to commission, headed by the translator.

Power referred to in foregoing interrogatories, and certified as follows:

Citizen Thomas Crescencio Pacheco, notary public, with an office in this city: I certify, in the most ample form, that before me has this day appeared Mr. D. Manuel F. Valdez, and under the oath which I administered to him he said, that the document which precedes and is certified at the close thereof, is an exact copy of the second of the three original documents which he brought before me; (the) which contains a copy, in Spanish, of a power, and at the close thereof is certified in English, which in the foregoing is translated, literally, into Spanish by the said Valdez, as he has deposed, which I attest; for proof whereof, I sign and seal this process verbal, with the said translator, in Monterey, the capital of Nueva Leon and Coahuila, the 19th October, 1856.

MANUEL F. VALDEZ. [SEAL.]

T. CRESCENCIO PACHECO,
Notary Public.

Translation from Spanish of power of attorney, referred to in interrogatories and hereinbefore as document 2.

Second seal two reals, for the two years 1832 and 1833.

In the city of Leona Vicaria, on the fifth day of the month of May, in the year one thousand eight hundred and thirty-two, before me, citizen Juan Gonzales, *regidor* (alderman) of the honorable council of this city, and acting *alcalde* (mayor) therein and in its jurisdiction, during the indisposition of the proper officer who officiates in the treasurer's office, no secretary being allowed him according to the terms of the law, and in the presence of the witnesses who will be named at the close hereof, personally appeared citizens Dr. (licenciado) José Maria Aguirre, Tomas Vega, and Rafael Aguirre, residents of this city well known to me, and declared that, in the most complete form which may be required by law, they grant, give over, and concede unto Mr. Samuel May Williams, a resident of the city of Austin, full power, as much as may be required and as may be necessary in law, specially, in order that in the name of these appearers, and in representation of their own persons, rights, and actions, so far as is allowed by the colonization law of the 24th March, 1825, he may

be able to proceed, and may proceed, according to his judgment, to the sale of the tracts (sitios) of land which, on the 14th June, 1830, the supreme governor of this State granted to them, the appearers; to which end their said attorney may covenant the sale or sales of the aforementioned tracts to such person or persons as may apply therefor, either for cash or on credit, on such term or terms (of payment) as may be agreed upon, receiving the amount of money (dollars) for which he may sell the aforementioned tracts; that, for all that is required and may be necessary, they give and grant to him the present power, without any restriction whatsoever, the appearers desiring, as they do desire, that, by the absence of any expression, clause, requisite, or condition which may not be expressed herein, this power shall not be prevented from effecting all the objects for which it is granted; therefore, for all that may be required, they grant it as matter herein and assented to, as effectually as though they granted it with free, unlimited, and general administration and power to institute suit and make oaths, and that he may appoint substitutes, revoke substitutions, and name others anew, and in due form discharge them all. And to confirm all that may be granted and executed by virtue of this power the appearers bind themselves, with their persons and their property, present and to come, and with them submit themselves to the law and jurisdiction of such judges and justices as can and should take cognizance of their cases and affairs, in order that they may compel and force them with all the vigor of the law, and as though they were by a decree vested with authority over the same as a matter adjudged, closed, and not appealed; that, to render it such, they have renounced their own forum, domicil, and vicinage, and all the laws which might favor them in the usual form.

Thus have they granted and signed it in presence of these witnesses: Citizens Antonio Espinosa, Rafael de Leon, and Francisco de la Fuerte y Gonzales, residents of this city.

I attest:

JUAN GONZALES.
TOMAS VEGA,
JOSÉ MD. DE AGUIRRE,
RAFAEL AGUIRRE.

Copy from the original, with which it agrees the day of its execution; given on two "useful" pages of paper, of the second stamp, conformable to law. All which I, the undersigned judge, officiating with those assisting me according to law, hereby attest.

JUAN GONZALES.

Witnesses: JOSÉ NAZO. ORTIZ,
J. ML. MORAL.

3. Spanish translation of commission from circuit court, (see original,) certified, in like manner, by Notary Pacheco, as having been translated faithfully and literally by Manl. F. Valdes; October 19, 1856.

4. Spanish translation of commission (sub) from United State consulate, Matamoras, Mexico, October 14, 1856, signed by Samuel P. Armstrong, United States consul, to any notary public, &c., authorized to take evidence, in writing, in Mexico, (see original,) certified, in like manner, by Notary Pacheco, as a faithful and literal translation by Manl. F. Valdes; October 19, 1856.

Translation; proces verbal, &c.

Third seal, [SEAL,] for years eighteen hundred and fifty-six and fifty-seven; FOUR REALES.

SALTILLO, October 24, 1856.

Received this day the foregoing documents, which are: an interrogatory, a power, and a commission, transmitted from the circuit court of the United States, as appears from the translations accompanying them, together with the commission (sub) addressed by the consul residing in Matamoras, which documents have been received from Monterey, where they were translated, as appears by the certificates thereto: this city, (poblacion,) together with all its archives, being sealed by the proces of Nueva Leon, and it being impossible to authenticate the testimony which is requested, the bearer thereof must be discharged, and the evacuation of this place awaited for the fulfilment of the requisition. As soon as the proces verbal shall have been executed, it will be transmitted to the consulate from which the documents were received. The judge of the instance court, substituted for the judge of letras of this district, Don Jesus de Acuña, has thus decreed before me, as I attest.

JESUS DE ACUÑA.

DOMINGO V. MEJIA,
Notary Public.

On this date the bearer was discharged, as it was ordered.

Witness my paraphe.

Notary's [—]

Translation, from Spanish, of depositions; first of Thomas de la Vega.

On the 24th day of November, 1856, peace having been re-established in this city, the (señor) judge caused to appear Mr. Tomas de la Vega, to whom was administered, in due form, the oath prescribed for one who comes forward to say the truth, according to his knowledge; and he having been interrogated conformably to the inter-

rogatories which are contained in the first of the translated documents which were read to him, he said, in answer :

To the first. That he is forty-six years of age and, by occupation a merchant.

To the second. That he is not acquainted with, and that he has never been acquainted with Samuel M. Williams.

To the third. That he has examined the copy, (in question,) and that he never signed the original which it purports to represent; that he did, conjointly with Don Rafael and Don José Maria Aguirre grant a power to the effect that the Williams referred to should take possession of, and mark off eleven tracts, (of land,) which the governor had granted to each one of the appearers, but that he did not grant, and that he has never granted, any power, as to his part, to alienate or sell these tracts; that, consequently, the power which is exhibited to him is false.

To the fourth. That he has always signed Tomas de la Vega, and that he does not recollect ever having done so under the name of Tomas Vega.

To the Fifth. That he has never signed any power for the alienation of his lands, and that he does not know whether there is a copy of the document exhibited to him in the archives of Saltillo; but that there cannot be, for he repeats his statement that he has never given any such power.

The sixth is omitted, because no such case has arisen as the question refers to.

To the seventh. That he does not understand the question.

To the eighth. That a short time since he granted a power to Mr. Simon Mussina, a resident of New Orleans, to settle, in his name, this matter, conformably to the powers given to him; that what he has stated is the truth, under the obligation of his oath, which he confirms and ratifies, signing it with the judge, before me, as I attest.

ACUÑA,

TOMAS DE LA VEGA,

DOMINGO V. MEJIA,

Notary Public.

DEPOSITION.

Second of José Cosme de Castaneda.

On the same day (November 24, 1856,) appeared Mr. José Cosme de Castaneda before the judge, and he having taken the oath in due form of law which is prescribed for every one who appears to tell the truth according to his knowledge, and having been interrogated on the questions which correspond to and are contained in the interrogatories read to him, he said, in answer :

To the first, That since the year 1840, he has in fact, been the custodian of the archives of the most honorable council of this city, as secretary of the said honorable body.

To the second, That he has examined the records, and in fact has

found a power granted by Messrs. José Maria de Aguirre, Rafael Aguirre, and Tomas de la Vega to Mr. Samuel May Williams, a resident of the city of Austin, which (power) is legally authenticated by the second regidor of the honorable council, who officiated as second alcalde, Don Juan Gonzales, dated the 28th of April, 1832, by which the aforementioned Messrs. Aguirres and Vega empower Williams, in their name, to take possession of thirty-three tracts of land, which the said appearers (grantors) acquired by purchase from the supreme governor of the State, and to select the spot in which the surveys of these tracts should be drawn. There is also another power which the same gentleman drew out before the same regidor and second alcalde, Don Juan Gonzales, dated the 5th of May, 1832, by which the said Williams is authorized to proceed to the sale of the above-mentioned tracts of land; but this power was signed only by the alcalde Don Juan Gonzales and Don José Maria de Aguirre, and not by Don Rafael Aguirre or Don Tomas de la Vega, or the assisting witnesses, wherefore the said document can be of no effect. That in verification of all that he has stated, he refers to the original documents which exist in the archives under his charge.

To the third, That he is unable to furnish the copies asked for, because he has not due authority to do so, but that if the judge officiating should deem it indispensable to grant authenticated copies, then recourse should be had, to secure them to the president of the honorable council. That what he has stated is the truth under the obligation of his oath, which he confirms and ratifies, adding that he is an adult, fifty years of age, a resident of this city, and by profession secretary of the honorable council. And he has signed this with the judge, before me which I attest.

ACUNA,

JOSÉ COSME DE CASTANEDA.

DOMINGO O. MEJIA, *Notary Public*.

[Translation.]

SALTILLO, *November 25, 1856.*

Considering the deposition of Don José Cosme de Castaneda, and a copy of the powers to which he refers, being important in order that they may secure the effect which is desired, and they being required, a communication has been directed to the president of the honorable council, to the end that he may be pleased to order that authenticated copies of the said powers be made out and collated, to be annexed to this *procès verbal*. The judge of instance has thus decreed and signed before me, as I attest.

JESUS DE ACUNA.

DOMINGO V. MEJIA, *Notary Public*.

On the same day, a copy of the communication referred to in the foregoing instrument, is annexed hereto.

Witness my paraphe,

Notary's [—]

SALTILLO, *December 1, 1856.*

On this day, the copies referred to in my foregoing process having been received, are annexed to this despatch, and the whole is directed to the consul of Matamoras, he having been present at the same by means of the foregoing document, and also his representative or agent here, by means of a notification in form, which appears therein, and which was presented in legal form, through the bearers (or messengers) established by the existing laws of the country for the despatch of requisitions of the nature of the present. On this day only, by virtue of the relations of amity which bind the republics of the United States and of Mexico, and in consideration of the authority of the former nation which despatched the commission, has this been caused to be executed. The judge has thus decreed, as I attest.

JESUS DE ACAÑA.

DOMINGO V. MEJIA,
Notary Public.

With the Judge of Letras.

Translation of copy of communication referred to.

To the president of the most honorable council:

There existing among the archives of the honorable council the register in which are found two powers granted by Don José Maria de Aguirre, Don Rafael, and Don Tomas de La Vega, in favor of Samuel M. Williams, on the 28th April and 5th May, 1832, and it being necessary that authenticated copies of said documents should be annexed to certain papers (proces verbal) which are now being prepared, you are requested to order an authentication of the same, and to cause them to be issued in due form, that they may have the desired effect.

Accept the assurance of my esteem.

God and Liberty.

SALTILLO, *November 28, 1856.*

Translation from Spanish.

Second seal, [REPUBLIC OF MEXICO,] for years one thousand eight hundred and fifty-six and fifty-seven: FOUR DOLLARS.

In the city of Leona Vicario, on the twenty-eighth day of the month of April, in the year one thousand eight hundred and thirty-two, before me, citizen Juan Gonzales, second regidor of the honorable council of this city, and second alcalde, acting during the inability of the proper officer, who officiates at the treasurer's office, there being no secretary allowed him according to the terms of the

law, and in presence of the witnesses who will be named at the close hereof, personally appeared citizens, namely, Doctor (*licenciado*) José Maria de Aguirre, Rafael de Aguirre, and Tomas de La Vega, residents of this city, well known to me, and declared that, being advised and admonished of what on the present occasion affects and concerns them, they do by these presents, and in the most complete form which may be necessary, grant, give, and confer to and upon citizen Samuel May Williams, a resident of the city of Austin, entire power as completely ample as may be required and necessary, to render it the more valid specially, in order that in their names, and as the representative of their persons, rights, and actions, he may, in the name of the appearers, (grantors of this power,) take possession of thirty-three tracts of land which the said appearers acquired by purchase from the supreme governor of the State, and (in order that he may) select the spot in which the surveys of the said tracts shall be made, all in one body or in different sections, according to his judgment, and for which, if it becomes necessary, he may appear before the judges and justices, who of right can and should previously, if it be necessary, pass judgment thereon, in order that they may empower him to execute writings before whom or where he may deem fit ; make demands, requisitions, protestations, affidavits, executions, repudiations, and conclusions, take notice of writs and judgments, join issue in and prosecute suits, and do throughout as much as the appearers if personally present could do, (it being intended that) the absence of any expression, condition, or clause not herein expressed, shall not prevent this power from effecting all the objects for which it is conferred ; that for all this and everything incidental and appertaining thereto, they grant him power, with general administration and authority, to appear in court, appoint substitutes, and revoke such appointments and name others, all of whom may be discharged in due form ; and, to confirm all that may be granted and done by virtue of this power, the appearers bind themselves with their present and future property, and with the same they submit themselves to the law and the jurisdiction of the judges and justices, who can and should take cognizance of their cases and affairs, to the end that, for its fulfilment, they may compel and pursue them with all the rigor of the law, and by executory process, as though judgment had been authoritatively passed upon the thing as adjudicated, consented to, and not appealed from, that they receive it as such, and renounce such laws as might protect them in the ordinary forms of law. Thus do they grant and execute it in presence of citizens Antonio Espinosa, Marcello de Cuellar, and Rafael de Leon, residents of this city, which I attest.

JUAN GONZALES,
JOSÉ MARIA DE AGUIRRE,
R. AGUIRRE,
TOMAS DE LA VEGA.

Witnesses :

JOSÉ NARAN OTIR,
J. MANUEL MORAL.

Copied from the original extant in the register of public documents of the year one thousand eight hundred and thirty-two, on this first day of December, eight hundred and fifty-six, at the official request of the judge (of *letras*) of this district. Given in two folios of stamped paper, which correspond on collation and correction, in presence of citizens Francisco Artraga, Pablo Mejia, and Guadalupe Hildrio, of this place ; all which I, the citizen José Antonio Goribar, president of the illustrious council of the city of Saltillo, attest, sealing the same with the seal of the said illustrious body.

JOSÉ ANTONIO GORIBAR.

JOSÉ COSMO DE CASTANEDA,

Secretary.

Translation from Spanish.

Second seal, [REPUBLIC OF MEXICO,] year one thousand eight hundred and fifty-six ; FOUR DOLLARS.

In the city of Leona Vicario, on the fifth day of the month of May, in the year one thousand eight hundred and thirty-two, before me, citizen Juan Gonzales, regidor of the honorable council of this city, and acting alcalde therein and in its jurisdiction during the indisposition of the proper officer who officiates in the treasurer's office, no secretary being allowed him, according to the terms of the law, and, in presence of the witnesses who will be named at the close hereof, personally appeared citizens Dr. (licendiado) José Maria de Aguirre, Tomas Vega, and Rafael Aguierre, residents of this city, well known to me, and declared : That, in the most complete form which may be required by law, they grant, give over, and concede unto Mr. Samuel May Williams, a resident of the city of Austin, full power, as much as may be required in law, and necessary, specially in order that, in the name of these appearers, and in representation of their own persons, rights, and actions, so far as is allowed by the colonization law of the 24th March, 1825, he may be able to proceed, and may proceed, according to his will (judgment) to the sale of the tracts (citios) of land which on the 14th June, 1830, the supreme governor of this State granted to them, the appearers, to which end their said attorney may covenant the sale or sales of the aforementioned tracts to such person or persons as may apply therefor, either for cash or on credit, on such term or terms (of payment) as may be agreed on, receiving the amount of money (dollars) for which he may sell the aforementioned tracts ; that for all that is required and may be necessary they give and grant to him the present power without any restriction whatsoever, the appearers desiring, as they do desire, that for the absence of any expression, clause, requisite, or condition which may not be expressed herein, this power shall not be prevented from effecting all the objects for which it is granted ; therefore, for all that may be required they grant it as written, and assenting as effectually as though it were expressed, with free, unlimited, and general admin-

istration and power to institute suit, make oaths, and that he may appoint substitutes, revoke substitutions, and name others anew, and all discharge in due form. And to confirm all that may be granted and done by virtue of this power, the appearers bind themselves with their persons and goods, present and future, and with them submit themselves to the law and jurisdiction of such judges and justices as can and should take cognizance of their cases and affairs, in order that they may compel and force them with all the rigor of the law, and as though they were by a decree vested with authority over the same as a matter adjudged, closed, and not appealed; that to render it such they have renounced their own forum, domicil, and vicinage, and all the laws which might favor them in the usual form.

Thus have they granted and signed it, in presence of us witnesses, citizens Antonio Espinosa, Rafael de Leon, and Francisco de la Fuente y Gonzales, residents of this city, as I attest.

JUAN GONZALES,
JOSÉ MA. DE AGUIRRE.

Copied from its original extant in the register of public documents, of the year one thousand eight hundred and thirty-two, this first day of December, eighteen hundred and fifty-six, at the official request of the judge of *Letras*, of this district; given in two folios of stamped paper, which correspond on collation and correction, in presence of citizens Francisco Artraga, Pablo Mejia and Guadalupe Hildrio, of this place. All of which, I, citizen José Antonio Goribar, president of the illustrious council of this city of Saltillo, attest, sealing the same with the seal of the said illustrious body.

JOSÉ ANTONIO GORIBAR.

JOSÉ COSME DE CASTANEDA,
Secretary.

On the said date appeared Dr. D. Santiago Hewitson, who is acquainted with the foregoing document, in the narrative part, and said that he has heard it, and that he is not an agent or representative of the party, but one charged with writing this process verbal; and I sign and attest it.

DOMINGO V. MEJIA,
Notary Public.

Finally, this process, (or these writings,) on seventeen useful folios of paper, were transmitted in a despatch to the consul, in Matamoras, not being sealed with the seal of the office, it having none at the present time.

In faith whereof, witness my paraphe.

Notary's [—]

The duties which Mr. Henry Maes has paid, and which are conformable to the tariff imposed on such documents as these, without including the paper, are fifteen dollars and six bits, (reales.)

As I affirm.

Notary's paraphe, or flourish. [—]

*Eastern District of Louisiana.*NEW ORLEANS, *February 25, 1857.*

I certify the foregoing XXV pages of manuscript to be a true and faithful version of the original documents in the Spanish language, contained on seventeen sheets of paper, as herein referred to; the said documents being the process verbal of Domingo V. Mejia, notary public, at Saltillo, Mexico, with the translations, (from English into Spanish of commission and interrogatories from United States circuit court,) and copies of powers, &c., &c., therein referred to; the translator's certificates and their relation to documents issued from the circuit court, are fully explained, and the powers referred to, responses of witnesses, and attestations of the notary, literally translated from the originals.

In testimony whereof, I hereto set my hand, at New Orleans, this 25th day of February, 1857.

ROBERT M. LUTHER,

Interpreter of U. S. district court, eastern district of Louisiana.

CONSULATE OF THE UNITED STATES OF AMERICA,
Matamoras, Mexico.

I, the undersigned, Samuel P. Armstrong, United States consul in and for the port of Matamoras, in the department of Tamaulipas and republic of Mexico, do hereby certify that the foregoing papers, appertaining to case No. 2,458, &c., &c., in the United States circuit court, wherein John W. Lapsley, defendant, *vs.* Mitchell, Warren, *et als.*, have been taken at Saltillo, in Mexico, are in strict accordance with the laws of Mexico, and are duly executed in form of law.

In witness whereof, I have hereunto set my hand and seal of office, [SEAL.] on this 5th day of February, A. D. 1857.

SAMUEL P. ARMSTRONG,

United States consul.

Circuit court of the United States, fifth circuit and eastern district of Louisiana, clerk's office:

I certify that the foregoing twenty-seven pages contain and form a full, true, and complete copy from the originals of the commission and interrogatories, and of the translation of the original depositions and documents thereto annexed, now on file in this court.

Witness my hand and the seal of the said court, at New Orleans, [SEAL.] this 23d March, 1857.

J. W. GURLEY, *Clerk.*

UNITED STATES OF AMERICA,
Eastern district of Louisiana, city of New Orleans, } ss:

Be it remembered, that on the several days hereinafter mentioned, I, the undersigned, commissioner of the United States for the eastern district of Louisiana, duly commissioned and sworn, did, at the instance and request of Robert Hughes, esq., attorney of John W. Lapsley, call and cause to come before me at my office, in the city of New Orleans, Louisiana, Juan Gonzales, sometimes called Juan Gonzales Zertucha, and John Trainor, persons of sound minds and lawful age, witnesses on behalf of the plaintiff in a certain civil suit now pending and to be tried in the circuit court of the United States for the fifth circuit and district aforesaid, wherein John W. Lapsley is plaintiff, and Mitchell, Warren, *et als.*, are defendants, the said cause being No. 2,458 of the docket of the said court; and the said witnesses having been by me first duly examined and cautioned, and sworn to testify to the whole truth and nothing but the truth touching and concerning the subject matter in controversy between the parties to the said cause, did depose and say as follows, to wit:

Deposition of Juan Gonzales, taken July 29, A. D. 1857.

Question. What is your name and age? By what name were you baptised and generally known from infancy to the year 1833? Did you or not after the year 1833 assume any additional name; and if so, for what purpose and object, and what was such additional name? By what name are you generally known? What is your present occupation and means of living?

Answer. My name is Juan Gonzales. I am fifty-nine years of age. I was baptised and generally known, from infancy to the year 1833, by the name of Juan Gonzales. I did, after the year 1833, assume an additional name—that additional name was “Zertucha.” I assumed it for the purpose of distinguishing myself from various other persons of the name of Juan Gonzales, living in Saltillo at that time, and to prevent my letters being taken out of the office by others. I am now generally known by the name of Juan Gonzales Zertucha. I am now a merchant. I have a tan-yard, and sell shoes and saddles.

I reside in Saltillo. I was born there, and have lived there ever since. I have held various municipal offices in Saltillo, in the State of Coahuila, from the year 1828 to 1850, including the position of representative to the congress of the State of Coahuila. I was elected a member of the ayuntamiento of the city of Saltillo. I held the office of regidor in that body in the year 1832. At the time that I held the office of regidor I occasionally acted as alcalde. In case of the sickness, absence, or death of the alcalde of the city, it devolved on me to discharge the duties of that office. In 1832, the city of Saltillo was known by the name of Leona Vicario.

The witness being shown the Spanish document, (marked A by me, commissioner, to identify the same,) which document is the testimonio of a power of attorney from José Maria Aguirre, Tomas Vega, and Rafael Aguirre, of date May 5, 1832, says, at the date of that

instrument he held the office of "second alcalde in turn" in Saltillo, then called Leona Vicario. I recognize the said instrument of writing. I have seen it before. The original of the said instrument was executed before me whilst I was acting as "second alcalde in turn." The original of the said instrument is on record in the archives of the ayuntamiento of Saltillo. The document now presented, marked A, is the "testimonio" taken from the original. At the time that the original of said instrument was executed before me, and the said testimonio was taken, I was acting in the capacity of "second alcalde in turn" in Saltillo. I was acting in that capacity in consequence of the sickness at the time of the second alcalde. The signature and rubric of Juan Gonzales to the Spanish instrument marked A, now presented, is my genuine signature and rubric. I know J. M. Moralz and José Naz. Ortiz, the assisting witnesses to the said instrument A. I am acquainted with their handwriting from having seen them repeatedly sign their names. I have examined their signatures to the said instrument A; they are their genuine signatures. They were signed by them to the said instrument in my presence, and on the day of the date of the certificate of the same. The protocol or original of the instrument now presented, marked A, was made at the request of José Maria Aguirre, Rafael Aguirre, and Tomas Vega. The three came together in person before me, and asked me to draw up the instrument. When the request was made many persons were present. I would not have drawn up the said instrument had not the said three parties have come together before me and requested it; it was at the request of the same three parties that I made and issued the testimonio, (instrument marked A, and now presented.) The three said parties were present when the said testimonio, or document marked A, was issued; I read it to them at the time, and they consequently must have known its contents; neither of them objected to the document, nor to any part of it; had any objection been made by them it would not have been executed. Tomas Vega did not make any objection to it, nor was there any obstacle in the way to the delivery of the said instrument A, or testimonio.

I am well acquainted with Tomas de la Vega, and have known him for more than twenty-five years in Saltillo; he keeps a small grocery store in that place. Tomas Vega and Tomas de la Vega, of Saltillo, is one and the same person. I know of no other person than the one I have mentioned, in Saltillo, of either of said names. The said Tomas Vega and myself are very intimate friends and companions; our families are intimate; we were in the council together at Saltillo.

The *testimonio* is the copy which the Judge himself makes from the original. The object of giving the testimonio, is for the protection of the rights of the parties. After an original or protocol is executed it remains deposited in the archives of the alcalde; by these archives I mean in the archives of the ayuntamiento, where all originals or protocols are deposited. The protocols or originals are never withdrawn from the archives, but copies may be given for purposes of evidence.

In drawing up the original or protocol, any mistake or omission which may occur cannot be corrected in the testimonio—the testimonio must conform to the original.

Question. Suppose a testimonio purports to be a copy of the protocol or original executed in due form with the signatures of all the parties, but by reference to the protocol or original it is found that it is not signed by one of the parties, but it is proved that the testimonio was issued and delivered at the request of the parties, and that the agreement contained in it was made before the alcalde by the parties; in such case would the testimonio be good?

Objection, (by defendant's counsel.) Counsel objects to the foregoing interrogatory, on the ground that it is a question of law and cannot be proved by witness.

Answer. Yes; the testimonio in such case would be good.

I do not recollect whether or not, the original of the instrument produced, marked A, was signed by Tomas Vega, or not. If the original was not signed by Tomas Vega, I cannot say why he did not sign it. I have not had control of the original or protocol of the instrument marked A, since 1832, nor have I seen it since then. I am acquainted with Antonio Espinosa, Rafael de Leon, and Francisco de la Fuentey Gonzales, named in the testimonio marked A; they are there inserted as instrumental witnesses, of the said witnesses Francisco de la Fuente y Gonzales, is the only one now living; the other two are dead. Those witnesses were present before me when the original was executed. The assisting witnesses, Moral and Ortiz, to the testimonio are both dead.

I have no interest in the suit pending in the United States circuit court, eastern district of Louisiana, at New Orleans, between John W. Lapsley and Mitchell and Warren, No. 2,458, of the docket; I know nothing about it.

I know of nothing more that would be of benefit or advantage to either of the parties to this suit.

Cross-examination.

The body of the instrument or testimonio, marked A, is not in my handwriting. I do not know who wrote the said document.

Question. Was the instrument A read by yourself individually to the contracting parties?

Answer. It was not read by me to them. It was read to them by the *escribano*, or secretary of the office as was customary.

Question. Did you yourself, at the time of the execution of the said instrument, read it?

Answer. I do not remember whether I did read it or not.

Question. Cuando ce paso este documento (A) ante voud; como alcalde segundo en turno se acuerda Vmd; si Vmd; mismo loha leido en todas sus partes?

Answer. No me avuerdo de haber leido et testamonio, linia por linia, como se me apreguntado.

Being offered the Spanish instrument A, (testimonio,) and requested

by the defendant's counsel to read the same, witness says, he cannot. I cannot read it because my sight is very much impaired. There was a time that I could read it with facility. I saw the said instrument when it was executed, and I see it now; but I have not seen it before, since it was executed, until to-day. In my official capacity I executed many other documents about the same time that document A, was executed. I came over here to New Orleans at the request of John Trainor. All my travelling expenses and whatever damage I may suffer in my business, even should it amount to \$500 or \$1,000 or more, but not over \$1,300, is to be paid by Mr. John Trainor. I am not to be paid any fixed sum over and above my travelling expenses except as above stated.

Mr. Trainor called on me at Saltillo, and invited, or made arrangements with me to come over here and give my testimony as to my signature to the said documents A. I have only known Mr. Trainor since the 4th of this month (July, 1857.) I do not know Mr. Trainor's occupation, nor do I know anything about him except in connexion with this case. I know nothing about the merits of Tomas de la Vega either public or private; he passes in Saltillo as a very respectable citizen.

Examination in chief resumed.

When I say in the cross-examination that the document A (*testimonio*) was read to the parties by the secretary, I mean the secretary of the alcalde.

Acts passed before the alcaldes are drawn up by the secretary, clerk, or some one employed to do the writing, and under the directions of the alcalde. I would not permit an instrument passed before me to be executed unless it had been read to the parties; if it was not read to the parties it would be null. I would not have permitted a *testimonio* to go from my office unless the parties had been informed of its contents.

It was my custom, when acting as alcalde, to read over the documents passed in my office, and then hand them to the secretary to be read to the parties. To-day is the first time I have seen the document A since the day I executed it in 1832.

I feel much fatigued, and my head is very feverish. On reflection, I now recollect that I did see the said document A on the Rio Grande on the 13th July, 1857.

JUAN GONZALES.

NOTE.—A. Lavisson, esq., was sworn, and acted as interpreter in the taking of the foregoing deposition.

Attest:

J. W. GURLEY,
United States Commissioner.

Adjourned until to-morrow at 1 o'clock, p. m.

Attest:

J. W. GURLEY,
United States Commissioner.

Met pursuant to adjournment, on this 30th July, 1857. F. H. Clack, esq., was by consent of parties sworn as interpreter.

Examination in chief resumed, and continued.

JUAN GONZALES witness :

Although I said on yesterday that I had not seen document A from 1832 up to that time, yet I did not well understand the question the gentleman asked. I now wish to correct myself, and say that I saw it on the 4th of this month at my own house in Saltillo, where it was shown to me by Mr. Treanor, in the presence of my family ; and I and my children then recognized my signature to it. I next saw the document in the city of the Rio Grande, which is the same place mentioned in my last answer on yesterday ; these are the only times I have seen it since 1832.

There was a secretary for the second alcade, in whose place I was acting in 1832, but I do not recollect who he was. The reason I could not read the document A, presented to me for that purpose yesterday, was because I am not able to see to read. I was totally blind during the years 1850, 1851, and 1852 from cataract in the eye. I was under medical treatment for it. I heard that there was a famous oculist in Guana Juato, Mexico, named José Caron de Billar ; I put myself under his care ; he performed an operation, and charged me \$800 for it. I was blind before the operation, but after it I was able to see, and have continued to see to this time. My eyes now are well, but I cannot see to read ; at night I can see nothing at all, or very little ; I never go out at night. I distinguish my signature to the document A by my rubric. I know that the said document was executed by me because I see it is my rubric.

Witness being shown the sign in Exchange alley, just opposite the court-room, ("city coal office, wholesale and retail,") was asked if he could read the same, and he thereupon read the letters from the court-room window without difficulty ; and he states that if the letters in document A were as large as those in the sign he could read them without difficulty. The reason I cannot read is in consequence of my eyes, and not of my inability to read.

The money which Mr. Treanor bound himself to pay as an indemnity for damages which I might suffer, and for my travelling expenses, was given as an inducement for me to come over, and not as compensation for my testimony.

Question. Had you heard before you left Saltillo that it had been doubted that the document A had been executed by you ?

Objected to by defendant's counsel on the ground that it is hearsay testimony, and irrelevant.

Answer. I never heard anything of the kind.

Question. Did you know before you left Saltillo that Tomas Vega had denied that he executed the document A, or that it was executed in your presence ?

Same objection as above by defendant's counsel.

Answer. I knew nothing of it.

Question. Did those facts, as to Tomas Vega's denials, come to your knowledge before you left the Rio Grande city?

Answer. I did not know of those facts, but John Treanor told me of them before I left Saltillo. He told me that Tomas Vega had told him that the document was false, and that he, Gonzales, was a bad man.

The above interrogatory, and answer thereto, objected to by defendants' counsel, on same ground as above.

The motive that induced me to come here, was because Tomas Vega said I was a bad man; and I came here to prove my signature, and to prove that I was a good man; and I would do it again, if necessary, at my own expense.

Cross examination resumed.

I know well the contents and substance of the document A. I know the contents from the expressions which it itself contains. I know its contents, because Mr. Treanor read the document to me at Saltillo, and it was read publicly by my children. When the document was read to me, the circumstances which took place in regard to it in 1832 then came back to my memory; no one had ever spoken to me of the document, nor had I ever thought of it, from 1832 until it was read to me by Mr. Treanor on the 4th July last. I remembered nothing of the document until it was read to me by Mr. Treanor at Saltillo; I then remembered, from my knowledge of the parties, knowing them well from my habits of daily intercourse with them, that they (three) had come before me and taken out the document. There were no particular circumstances which happened at the time of the execution of the document A to fix it in my memory; nothing but the fact that the parties asked for the execution of the document, and presented themselves to me.

When the document was read to me on the 4th of July instant, I then remembered well; my memory is not so bad that I could not remember that the three gentlemen mentioned in said document presented themselves to me together, in my office, to ask for the issuance of that document at the time it was executed.

If a person had asked me within the last year if the two Aguirres and Vega had executed such a document before me in 1832, as alcalde, without being shown the document itself, I would have said that I did not know; but, by referring to the archives of the ayuntamiento, I could there discover positive evidence of the fact, because it would be impossible to remember for a space of twenty-five years.

Question. Do you remember the fact, as a distinct fact, that these three persons came before you and asked for the execution of the document A, or is your knowledge of the fact that they did so derived from the document itself?

Answer. Had anybody asked me that they did so, without showing me the document, I should have been in doubt; but upon seeing the document, and remembering that there was a good deal of traffic in

lands in 1832, I then remembered the fact that these three persons came in person before me and asked for the execution of the said document.

From what I have heard I believe Mr. Vega has endeavored to discredit me, and to throw a doubt upon my veracity, and that is the great motive which influenced me to come here and substantiate my character. And further he saith not.

JUAN GONZALES.

Deposition of John Treanor, taken July 31, 1857.

I live in Matamoras, and have resided there since 1834. I have visited the city of Saltillo, State of Coahuila. I have been there three times—once in 1846, once in 1856, and again in July, 1857. I read write and speak the Spanish language. I am acquainted with Juan Gonzales, sometimes called Juan Gonzales Zertucha; he resides in Saltillo. He is the same man who was examined here on yesterday and the day before in this cause before this commissioner. I first became acquainted with said Gonzales in Saltillo, in this year 1857. I became acquainted with him by presenting myself to him in his house in Saltillo with the document A, and asking him whether or no it was his signature thereto. I saw his buildings and his property in the city, and his family, and learned his character by inquiries from the citizens of Saltillo. His position as to reputation and character in Saltillo is that of a man of respectability and good character. He has a tannery, a saddlery, and shoemaking establishment, and seemed to be doing a good business. I visited his establishment myself. I became acquainted with Tomas Vega or Tomas de la Vega, who resides in Saltillo, at the same time that I made the acquaintance of Juan Gonzales. I did not know any other man in Saltillo by either of the names of Tomas Vega or Tomas de la Vega than the one I have mentioned. The man I have mentioned is the same who was interested in a large tract of land in Texas, which is now in controversy in this suit. I know him to be the same, because he told me he was the man. I know that he is sometimes called Tomas Vega. I was in his office on one occasion, and saw lying on his counter a pamphlet, addressed "Tomas Vega." It was a political pamphlet, printed in Mexico.

Question. Have you any, and what, reason for believing that that pamphlet was sent to Mr. Vega through the mail?

(Objected to by defendant's counsel on the ground that it is secondary evidence.)

Answer. I think it was sent to him through the mail, because it is the usual way in Mexico of transmitting such things. That pamphlet, on its face, purported to have been printed in the city of Mexico.

Question. In your conversation with Mr. Vega, did he, in express terms, claim to have an interest in the lands in controversy in this case?

(Objection. Defendant's counsel objects to this on the ground of hearsay.)

Answer. He did, sir. He estimated his share of the land at \$60,000.

I have no interest, either direct or indirect, in the event of this suit.

Cross-examination.

My business is that of a land agent. I reside in Matamoras. I was employed to go to Saltillo by W. G. Hale, of Galveston, one of the counsel in this case. I was employed by him to go to Saltillo with the document A, referred to in deposition of Juan Gonzales, for the purpose of finding out the parties who executed the same, and the witnesses and all others connected with it, if alive, with a view of hunting up testimony to establish its verity. My remuneration for that service was direct and not contingent. When Mr. Hale wrote, stating the services required, and requesting me to go to Saltillo for that purpose, I was reluctant to accept, in consequence of other business engagements which occupied my entire time, and the probable loss from my absence. I finally agreed to go, on condition of his giving me \$1,000, which was agreed to. In consequence of other services being required than those I at first contemplated, this amount was, at my instance, augmented \$300; in addition to this, I was to have my travelling expenses. Mr. Hale thought my demands excessive, and referred the matter to Mr. League, with whom the final arrangement above stated was made.

It is about eight days' horseback travelling from Matamoras to Saltillo; on this occasion I went part of the way by steamer; I left Matamoras for Saltillo on "Corpus Christi" day; I think I arrived at Matamoras, on my return from Saltillo, about the 20th July, 1857. I attended to other business, whilst I was away, than that connected with the establishing of the document. (A.) I am to receive no further compensation for coming to this city; all that is included in the agreement above stated; and I am also bound to accompany Mr. Gonzales back to Saltillo, and see him safely home; our expenses, however, are to be paid, as I have above stated; I mean they are to be paid to the Rio Grande city, only. The travelling expenses of myself and Gonzales, from Rio Grande city to Saltillo, and my return thence to Rio Grande city, will be about forty-five dollars.

I made my inquiries, in Saltillo, as to the reputation and standing of Juan Gonzales, of Dr. James Hewitson, Don Manuel Sanchez, and the hotel keeper, where I stopped, whose name I do not remember. The population of Saltillo is about twelve thousand, as I have been informed by a gentleman residing there. I never knew of any other way of conveying pamphlets, in Mexico, than by mail; there may be other ways of sending them, but I know of no other way than by mail.

Examination-in-chief resumed.

I believe Dr. Hewitson has lived in Saltillo for more than twenty years. I understood that, for a greater part of the time, he acted as

a physician; probably for more than twenty years. He was also engaged as partner in a manufactory.

JOHN TREANOR.

And further, I certify: That the witness, Juan Gonzales, being unable to understand or speak the English language, the Spanish being his mother tongue, A. Lavisson, esq., was duly sworn, and acted as interpreter on the first day of his examination; and upon the second and last day of his examination, F. H. Clack, esq., was, with the consent of the plaintiff's counsel, sworn, and acted as interpreter. That the said depositions were by me reduced to writing, in the presence of the witnesses, and after having read to each witness his deposition, they were by them signed in my presence. That the interrogatory in the Spanish language propounded to the witness Juan Gonzales, was written by the defendant's counsel, F. H. Clack, esq., and the answer thereto, also in the Spanish language, by A. Lavisson, esq., interpreter. That due notice, in writing, of the time and place of taking the said depositions was made out, and served upon the defendant's counsel, by delivering the same to F. H. Clack, esq., member of the law firm of Singleton & Clack, esq's., at their office, in New Orleans. That the defendant's attorney, F. H. Clack, esq., did attend at said examinations, and did cross-examine the said witnesses. That the reasons for taking these depositions are, that the said witnesses reside, the one in Matamoras and the other in Saltillo, Mexico, more than one hundred miles from this city of New Orleans, the place where the court is held in which the said cause is pending, and are now but temporarily within this district. That I am not of counsel nor attorney for either or any of the parties to the said cause, nor am I in anywise interested in the event thereof. All which I now certify to the said court, under my hand and private seal, at the city of New Orleans, within the eastern district of Louisiana, this 31st day of July, A. D. 1857.

J. W. GURLEY, [SEAL.]
Commissioner, &c.

Clerk's office, circuit court of the United States, fifth circuit and eastern district of Louisiana.

I certify the foregoing to be a true and correct copy of the depositions of Juan Gonzales and John Treanor, taken from the originals now on file in the case of John W. Lapsley vs. Mitchell, Warren, *et als.*, No. 2,458 of the docket of the said court.

Witness my hand and seal of the said court, at New Orleans, this [L. s.] 5th September, 1857.

J. W. GURLEY, Clerk.

I, Theodore H. McCaleb, United States judge for the eastern district of Louisiana, do hereby certify that John W. Gurley, whose

name is signed to the above certificate as clerk of the circuit court of the United States, for the fifth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court. That said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said [L. s.] district, this twenty-third day of September, A. D. 1857.

THEO. H. McCALEB,
United States Judge.

Produced by Judge Watrous.

SUPREME COURT OF THE UNITED STATES.

No. 6, December term, 1857.

Ex parte: In the matter of Jacob Mussina and Angela Garcia Lafon de Tarneva *et al.*, appellants, *vs.* Rafael Garcia Cavazos and wife *et al.*

On motion for a rule on the Hon. John C. Watrous, judge of the district court of the United States for the eastern district of Texas, to show cause, &c.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF TEXAS.

CAVAZOS and others	}	In Chancery, No. 41.
<i>vs.</i>		
STILLMAN and others.		

Simon Mussina, being duly sworn, deposeth: That he is the agent of Patrick C. Shannon, Jacob Mussina, and Angela Garcia Lafon de Tarneva, three of the defendants in the above entitled cause, and is entrusted by them with the care and protection of their interests in said suit; that said suit was instituted in the district court of the United States, having and exercising the powers and jurisdiction of a circuit court of the United States for the district of Texas, on the 12th day of January, 1849, and that a final decree was rendered in said cause against said three defendants and other co-defendants, by the Hon. John C. Watrous, judge of said court, on the 15th day of January, 1852, and that an appeal was taken from said final decree by said Shannon on the 30th July, 1856, which appeal is now pending in this honorable court; that at the last term of this honorable court, to wit: In the month of December, 1856, this affiant retained the services of counsel for the argument of said cause in this court in behalf of said Shannon, and, that, on examination of the record, this deponent was advised by said counsel that the said appeal had been taken irregularly and would be dismissed for this, to wit: That the said final decree was joint against the several defendants in said suit,

and that the co-defendants of said Shannon had not joined in the appeal, nor been notified to join; that, thereupon, this deponent being desirous to perfect said appeal in behalf of said Shannon, and also desirous to make said Jacob Mussina and Angela Tarneva joint appellants with him, did, prior to the expiration of five years from the date of said final decree, to wit, in the month of January last, (1857,) and several days before the fifteenth day of said month, cause to be presented to the said Judge Watrous, in chambers, a petition of appeal in the name and behalf of said Jacob Mussina and Angela Tarneva from said final decree, and in said petition prayed for a citation of all parties in interest, to the end that co-defendant Patrick C. Shannon might join in said appeal, and that all the other co-defendants might also join, or refuse to join, in said appeal; and said petition of appeal further contained an offer to give such appeal bond as might be required by said Judge Watrous; as the whole will more fully appear by reference to a duly certified copy of said petition of appeal hereunto appended as part of this affidavit marked A.

And this affiant doth further depose that the said honorable judge declined at the time of said presentation of said petition to allow said appeal, or to order the other parties in interest to be cited, or to fix the amount of or approve any appeal bond, but declared that he would consider the subject, and report his decision to the attorney who signed said petition of appeal; that after the lapse of some days, without any decision having been given, as promised by said judge, he was again requested in open court, and prior to the said fifteenth day of January last, and by the said attorney who had signed said petition of appeal, to allow said appeal, and grant said order of citation, and approve an appeal bond as aforesaid, but said Judge Watrous again declined to allow said appeal or grant any order in the premises, saying he would fix the amount of bond to be given by petitioners when the opposite counsel should be in court. And this deponent further saith that the said John C. Watrous, judge as aforesaid, hath not yet allowed said appeal, but declines and neglects to allow the same, or to grant any order for citation, as aforesaid, or to approve any appeal bond, so that without the aid and interposition of this honorable court the said Patrick C. Shannon, Jacob Mussina, and Angela Garcia Lafon de Tarneva are utterly without remedy in the premises, and without the means of exercising their legal right of having said final decree examined and revised on appeal in this honorable court.

SIMON MUSSINA.

Sworn and subscribed in open court December 24, 1857.

WM. THOS. CARROLL,

Clerk Supreme Court United States.

Endorsed : Filed December 24, 1857.

A.

UNITED STATES OF AMERICA, DISTRICT OF TEXAS.

CAVAZOS and others	}	Chancery, No. 41.
vs.		
STILLMAN and others.		

To the Hon. J. C. Watrous, judge of the United States district court for the district of Texas:

The petition of Jacob Mussina and Angela Garcia Lafon de Tarneva, who are defendants with Patrick C. Shannon in the above entitled and numbered cause, and in which said cause a final decree was rendered in this court on the fifteenth day of January, 1852, being the highest court in which a decision could be had; that the real estate disposed of by said decree, and the property there set forth, was of more than two thousand dollars in value. That the decision and decree of your honorable court, rendered in the above entitled and numbered cause, was adverse to the right, title, and, &c., of petitioners, and that it so appears of record. That said Patrick C. Shannon, the co-defendant of petitioners, having prayed an appeal to the United States court from the decision of your honor, petitioners, referring to the petition of said Shannon, and the appeal bond filed in said cause by the said co-defendant, now comes and prays your honor to allow your petitioners to join and unite with your co-defendant in said appeal from the decree rendered as aforesaid by your honor, and that all parties in interest be cited, &c., and for such orders as may be necessary in effecting said appeal. And petitioners are ready to tender such bond for costs, &c., as may be required, &c., by this honorable court.

JACOB MUSSINA,
ANGELA LAFON DE TARNEVA,

By their attorney DAN'L D. ATCHISON.

THE UNITED STATES OF AMERICA, EASTERN DISTRICT OF TEXAS.

I, James Love, clerk of the district court of the United States for the eastern district of Texas, certify the foregoing to be a true copy of the original, purporting to be a petition for appeal to the Supreme Court of the United States, in the case No. 41, in chancery, wherein Rafael Garcia Cavazos and others are complainants, and Charles Stillman and others are defendants, by Jacob Mussina and Angela Garcia Lafon de Tarneva.

In testimony whereof I hereunto set my hand, and affix the seal
[SEAL.] of said court, at the city of Galveston, this 8th day of July,
A. D. 1857.

JAMES LOVE, *Clerk.*

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF TEXAS.

CAVAZOS and al. }
 vs. } No. 41, in chancery.
 STILLMAN and al. }

Now, the United States district court for the eastern district of Texas, on motion of J. P. Benjamin, of counsel for Jacob Mussina and Angela Garcia Lafon de Tarneva, two of the defendants in the above entitled cause: Ordered, that the honorable John C. Watrous, judge of the district court of the United States for the eastern district of Texas, show cause, on the first Monday of February next, why a mandamus should not issue, directing him to allow the appeal of said defendants from the final decree rendered against them in the above entitled cause, and to grant all such legal orders as may be necessary to enable said defendants to bring said appeal regularly before this court.

Endorsed: Filed December 24, 1857.

SUPREME COURT OF THE UNITED STATES.

December term, 1857.

In the matter of JACOB MUSSINA and ANGELA GARCIA }
 LAFON DE TARNEVA and al., appellants, } *Ex parte.*
 vs. }
 RAFAEL GARCIA CAVAZOS and WIFE and al. }

On motion for a rule on the honorable John C. Watrous, judge of the district court of the United States for the eastern district of Texas, to show cause, &c., Mr. Benjamin, of counsel for the said Jacob Mussina and Angela Garcia Lafon de Tarneva, appellants, as aforesaid, and two of the defendants in the above entitled cause, moved the court for a rule on the honorable John C. Watrous, judge of the district court of the United States for the eastern district of Texas, requiring him to show cause, on the first Monday of February next, why a peremptory writ of mandamus should not issue, directing him to allow the appeal of the said defendants from the final decree rendered against them in the above entitled cause, and to grant all such legal orders as may be necessary to enable said defendants to bring said appeal regularly before this court.

On consideration whereof it is now here ordered by the court, that a rule on the honorable John C. Watrous, judge of the district court of the United States for the eastern district of Texas, requiring him to show cause, on the first Monday of February next, why a peremptory writ of mandamus should not issue for the purposes above stated, be, and the same is hereby, granted; and it is further ordered that a copy of this rule be forthwith served on the said district judge.

DECEMBER 24, 1857.

I, William Thomas Carroll, clerk of the Supreme Court of the United States, do hereby certify that the foregoing is a true copy of the rule as extracted from the minutes of said Court.

In testimony whereof, I hereunto subscribe my name and affix the [L. s.] seal of said Supreme Court, at the city of Washington, this 24th day of December, A. D. 1857.

WM. THOS. CARROLL,
Clerk Supreme Court United States.

U. S. SUPREME COURT ROOM,
Washington City, D. C.

I certify that a copy of this rule was served upon the Hon. John C. Watrous, and the service acknowledged by the said Watrous in presence of D. W. Middleton and Robert Broom, esquires, in the city of Washington, on the twenty-ninth day of January, 1858.

J. D. HOOVER,
U. S. Marshal for the District of Columbia.

U. S. DISTRICT COURT, EASTERN DISTRICT OF TEXAS,
Galveston, January 14, 1858.

On this the day above written this document was handed me, and I return the fact, that the Hon. John C. Watrous is not in this district at this time; and that, from my last information and belief, the said John C. Watrous is now either in Washington city, or on his way thereto.

BEN McCULLOCH,
United States Marshal.

By JAS. A. H. CLEVELAND, *Deputy.*

Endorsed: Filed January 29, 1858.

SUPREME COURT OF THE UNITED STATES,
December Term, 1857.

In answer to a rule, recently made by this court, requiring me to show cause why a peremptory writ of mandamus should not be issued, commanding me to allow the appeal of Jacob Mussina and Maria Angela Garcia de Tarneva, two of the defendants in a cause heretofore determined in the district court of the United States for the district of Texas, I most respectfully state that I am now ready to allow such appeal and always have been. That I have never been disposed to oppose or hinder it. My desire has always been that my decision in the case should be revised by this honorable Court, where, if it was right, it would be affirmed, and where any error into which I may have fallen will be at once detected and reformed. Some time before the 15th day of January, 1857, Mr. Daniel D. Atchison, of Galveston, stated to me at chambers that he wished to take an appeal for Mussina in the Cavazos case. I asked him whether the time limited for taking appeals had expired or not. He said that it had not.

I then replied, "Mr. Mussina has a right to the appeal, and I will give it to him as a matter of course. Call it up in the court-house at any time when the opposing counsel is present, and I will fix the amount of the bond and perfect the appeal." It has been my practice, whenever it is convenient, to hear both sides as to the amount of the bond. The opposing counsel, Mr. Hale, resided in Galveston. His office is but a very short distance from the court-house. The court, at the time of the application, was in session, and Mr. Hale was in daily attendance upon it. Notice might have been served upon him very easily at any time. If notice had been served upon him, I should have proceeded, without his presence, and perfected the appeal. But I was never informed that Mr. Hale had notice of the application. No citations were ever presented to me for signature—no bond for my approval.

I have no recollection that the application was ever renewed to me, either in open court or at chambers. The conversation which occurred at my office between Mr. Atchison and myself, as above stated, is the only one of which I have any remembrance. I do not say that the appeal was never brought to my notice in open court; but I do say that if it ever was I do not remember it.

The session of the court continued for several weeks, and I believe months, after the application of Mr. Addison was made to me. Mr. Hale was in almost constant attendance upon the court in attention to his business, and it would have been very easy for Mr. Atchison to present the matter to the court when Mr. Hale was present. If he had done so I should, without the least hesitation, have proceeded to do anything necessary to perfect the appeal. If he had stated that he could not procure the attendance of Mr. Hale, or could not wait further for his attendance without injury to his client, I should have proceeded to act on the application at once. The intervention of this court is entirely unnecessary, as I am ready at any moment, when requested, to proceed to approve a proper and sufficient appeal bond and to sign a proper citation. And even if I should not be satisfied with the bond which might be presented to me, and should refuse to approve it, the parties affected by such refusal could at once obtain their appeal from any of the judges of this court, either during the term or afterwards. I submit, therefore, that the rule should be discharged.

JOHN C. WATROUS.

WASHINGTON, *January* 23, 1858.

FEBRUARY 1, 1858.

In support of this answer I beg leave to refer to several affidavits received since it was written, and which accompany it.

J. C. WATROUS.

Endorsed: Filed 1st February, 1858.

DISTRICT COURT OF THE UNITED STATES, EASTERN DISTRICT OF TEXAS,
AT GALVESTON.

RAFAEL GARCIA CAVAZOS and others. }
vs. } In chancery, No. 41.
CHARLES STILLMAN and others. }

I, Joseph E. Love, deputy clerk of the district court of the United States for the eastern district of Texas, at Galveston, make oath and say: That on the 13th day of January, A. D. 1857, Daniel D. Atchison, esq., brought into the clerk's office of said court a paper, purporting to be a petition of Jacob Mussina and others to join in an appeal theretofore taken in the above entitled cause. Affiant believes that this was in the afternoon of said day; and the endorsement of filing, made on that day, is in my handwriting. I was present when the petition was presented to Judge Watrous by Mr. Atchison. His honor asked him if the five years allowed by law for taking an appeal had expired? Mr. Atchison replied, "No." Judge Watrous then replied, as near as I can remember, in these words: "Certainly, sir, I will grant your request, and any day you will get the opposing counsel and come to me I will fix the bond, and perfect the appeal." It was my duty to be in court whilst it was in session, and I was there during the greater part of the time. F. J. Parker officiated in the absence of the clerk and myself. To the best of my remembrance and belief, no application for appeal in said cause was made in open court from the 13th to the 16th of January, inclusive. I believe I was in court on those days all the time it was in session.

J. E. LOVE.

UNITED STATES OF AMERICA, EASTERN DISTRICT OF TEXAS.

I, F. J. Parker, United States Commissioner in and for the eastern district of Texas, hereby certify that on this the 14th day of January, A. D. 1858, personally appeared J. E. Love, and signed the foregoing affidavit in my presence, and made oath that the same was true, to the best of his knowledge and belief.

In testimony whereof I hereunto set my hand, at Galveston, this 14th day of January, A. D. 1858.

F. J. PARKER,
U. S. Commissioner for the eastern district at Texas.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS.

CAVAZOS *et al.* }
vs. } In chancery, No. 41.
STILLMAN *et al.* }

I, James Love, clerk of the United States district court, sitting at Galveston, state, on oath, that it appears, from the minutes of the court now before me, entered in my own handwriting, that I was in

court from the 13th to the 20th January, 1857, inclusive. That during that time, whilst I was in court, to the best of my recollection and belief, no application was made in open court by D. D. Atchison or any other for appeal in the above cause on any of those days. I further state that I was not in court all the time of its session on the days named, but was never absent without leaving one or both of my deputies, F. J. Parker and J. E. Love, with strict injunctions that one of them should always be at the clerk's table. The court opened at 10 a. m., and adjourned at 2 p. m., with a uniformity I have not seen equalled. I usually left court between 11 and 12 o'clock.

JAMES LOVE.

UNITED STATES OF AMERICA, EASTERN DISTRICT OF TEXAS.

I, F. J. Parker, United States Commissioner in and for the eastern district of Texas, hereby certify that on this the 14th day of January, A. D. 1858, James Love personally appeared before me and signed the above affidavit in my presence, and made oath that the same was true, to the best of his knowledge and belief.

F. J. PARKER,

U. S. Commissioner for the eastern district of Texas.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS.

CAVAZOS and others	} In chancery, No. 41.
<i>vs.</i>	
STILLMAN and others.	

I, F. J. Parker, state on oath that I was present at the January term of the United States district court for the eastern district of Texas, sitting at Galveston, on each of the days from the 13th to the 16th of January, 1857, inclusive; that during that time no application was made in open court from any source for an appeal in said chancery case No. 41, or for any other action relating to the same while I was present in court. I further state that at the said term of said court I was acting as deputy clerk of the same for James Love, the clerk of the court at Galveston, and that it was my custom always to be present during the absence of the said James Love, or J. E. Love, his deputy, and that, to the best of my recollection, I was never absent from court when one or the other of the said gentlemen were not present.

F. J. PARKER.

STATE OF TEXAS,	}
<i>City of Galveston.</i>	

I, James Love, United States commissioner in and for the eastern district of Texas, certify that on this, the 14th day of January, 1858, F. J. Parker personally appeared and signed the above affidavit in my presence, and made oath that the same was true, to the best of his recollection and belief.

JAMES LOVE,

U. S. Commissioner.

IN THE UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF TEXAS,
GALVESTON.

CAVAZOS and others }
vs. } Chancery, No. 41.
STILLMAN and others. }

I, J. A. H. Cleveland, state on oath that I am deputy marshal, and have been since the appointment of Ben McCulloch as marshal of the district of Texas in 1853, and that as such deputy marshal it is my duty and my business to be present each day when the court is in session, and I can safely say that, to the best of my knowledge, I have never been absent a day when it was my duty to be present in court.

I attended regularly the January term, 1857, every day, and I never saw nor heard of any petition for an appeal in the above case until I received a few days ago from Mr. Hale a document, the affidavit of Mussina for mandamus, which was a copy, as he wrote me, filed by Mussina in the Supreme Court of the United States, and which said copy of affidavit he, the said Hale, wrote me to hand to Judge Watrous.

I am positively certain that the attorney for Mussina did not at any time during the January term, 1857, present or read any such paper in open court. From the fact that this case was an important one, and much clamor raised against Judge Watrous about it, I have been particular in noticing all the action taken by counsel in court in relation thereto, and thus the reason why I am so positively certain as to the statement above made.

J. A. H. CLEVELAND.

Subscribed and sworn before me this 14th day of January, 1858.

F. J. PARKER,
U. S. Commissioner.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF TEXAS.

CAVAZOS *et al.* }
vs. } In chancery, No. 41.
STILLMAN *et al.* }

I, Joseph E. Love, deputy clerk of the United States district court for the eastern district of Texas, do upon oath depose and say, in addition to my affidavit of this date, previously made and sworn to before F. J. Parker, commissioner, &c., at the request of Ebenezer Allen, of counsel for the plaintiffs in the above entitled and numbered cause, that I have this day carefully examined the minutes of the court for the entire month of January, 1857, and find that they contain no entry whatsoever in the said cause, of or relating to any pro-

ceeding had therein, either upon the said petition of appeal mentioned in the affidavit of Simon Mussina filed in the Supreme Court of the United States at the December term thereof, 1857, (as appears by a copy of said affidavit, duly certified by William Thomas Carroll, clerk of said Court, which I have read,) or upon any other matter whatsoever pertaining to said cause. And I further say that if any action had been taken or previously had in said cause in open court upon said petition, or touching the matter thereof, in any manner whatsoever, the same would have been entered at the time, and would now appear upon said minutes.

J. E. LOVE.

Sworn and subscribed before me, this 14th day of January, A. D. 1858.

F. J. PARKER,

U. S. Commissioner for the Eastern District of Texas.

DISTRICT OF TEXAS.

RAFAEL GARCIA CAVAZOS *et als.*

vs.

CHARLES STILLMAN *et als.*

} In chancery at Galveston.

I, John S. Jones, make oath and say, that I was crier of the district court of the United States for the eastern district of Texas at Galveston during the January term, 1857, of said court; that during the most of the time said suit was pending in said court I was deputy clerk thereof, and was familiar with said cause, and that but little transpired in the progress of said cause of any importance with which I was not familiar.

I further say that said cause was one of deep and exciting interest, and that circumstances attending said cause drew my attention especially thereto.

And I further say, that, from the 1st to the 15th of January, 1857, I was but rarely absent from said court during its sessions, and that I have no recollection of any application having been made in open court during the time aforesaid for an appeal in said cause, nor do I believe that such application could have been made and refused by the court without my knowledge. I further say that I am personally acquainted with some of the parties, and am well acquainted with almost every counsellor who from time to time was engaged in said cause.

JOHN S. JONES.

The words "for an appeal in said cause" interlined before signing.

Sworn to and subscribed before me, this 14th day of January, A. D. 1858.

F. J. PARKER,

U. S. Commissioner for the Eastern District of Texas.

Endorsed: Filed February 1, 1858.

Ex parte: In the matter of Jacob Mussina and Angela Garcia Lafon de Tarneva *et al.*, appellants, (No. 6,) *vs.* Rafael Garcia Cavazos and wife *et al.*

On motion for a peremptory mandamus, or for a rule to show cause, &c.

Mr. Justice McLean delivered the opinion of the court.

A motion was made at this term for a rule on the district judge of Texas to show cause why a mandamus should not be issued commanding him to allow an appeal in the above case. This rule was granted on the affidavit of Simon Mussina, as agent for a part of the defendants.

In his answer the judge says, I am now ready to allow the appeal and always have been ; that some time before the 15th day of January, 1857, Mr. Daniel Atchison, of Galveston, stated to him at chambers, that he wished to take an appeal for Jacob Mussina in the above case, and that the judge inquired whether the time *limited* for taking appeals had expired, and was informed it had not. The judge then replied, Mr. Mussina has a right to an appeal, and I will allow it as a matter of course, when the opposing counsel shall appear and I will fix the amount of the bond. It is his practice to allow appeals in the presence of counsel. Mr. Hale, the counsel for the defendants, lives in Galveston, near to the place where the court was held, and was daily in court. No application seems to have been made in court, on the subject of the appeal, no citation was presented to the district judge, no bond for his approval. The conversation with Mr. Atchison at the chambers of the judge, respecting the appeal, is all that was said to him on the subject. If it were mentioned in open court, he had no recollection of it.

The clerk of the court, the deputy clerk, the crier, the marshal of the United States and his deputy, who were in attendance on the court, all corroborate on oath the statement of the judge, and say no application was made in open court for the appeal, and no entry on the docket is found of such an application. From the certified copy of the petition for an appeal, it does not appear to have been filed, or that an entry of it was made on the docket.

A party wishing an appeal should make an application for its allowance in open court, or to the judge at his chambers, and should name his securities ; and the bond should be prepared for the approval of the judge, and the citation for his signature, unless the appeal was prayed in open court and entered upon the record.

It appears the decree in question was entered jointly against several defendants, and that an appeal by Patrick C. Shannon only, who was one of the defendants, was taken. Simon Mussina, on whose oath the rule was entered, was agent for Jacob Mussina, Angela Garcia, Lafon Tarneva, who were also defendants, and he desired that these persons might be allowed an appeal, and also the other defendants, so as to remove the case to the supreme court. At this time the cause was pending in the supreme court, on the appeal taken by Shannon. That appeal was irregular, as less than all the defendants in a joint

decree, cannot appeal, without a summons and severance in the court below, and this was not done on Shannon's appeal.

The regular mode of proceeding would have been to dismiss the appeal in this court, pray for another appeal in the court below, and for a summons and severance, so that the defendants desirous of an appeal might take it, without the concurrence of those defendants who were opposed to it. Had the appeal been prayed in open court and entered upon the record, the judge below might well have refused it, as the legal steps for its allowance were not taken. Under such circumstances, it was the duty of the judge to act in the presence of the opposing counsel.—(*Owings et al. vs. Kincannon*, 7 Peters, 399 ; *Todd et al. vs. Daniel*, 16 Peters, 521.) Whether an application might not have been made to this court to correct the irregularity of the appeal is not before us, under the rule for the mandamus. The writ is refused.

Ex parte: In the matter of Jacob Mussina and Angela Garcia Lafonde Tarneva *et al.*, appellants, *vs.* Rafael Garcia Cavazos and wife *et al.*

On consideration of the return filed by the honorable John C. Watrous, judge of the district court of the United States for the eastern district of Texas, in obedience to the rule granted by this court on a prior day of the present term, to wit: on Thursday, the 24th of December last, and of motion made by Mr. Benjamin, on the 5th instant, for a peremptory mandamus. It is now here considered and ordered by this court that the said motion be, and the same is hereby, overruled, and that the rule heretofore granted by this court as aforesaid be, and the same is hereby, discharged.

Per MR. JUS. McLEAN.

I, William Thomas Carroll, clerk of the Supreme Court of the United States, do hereby certify that the preceding twenty-six pages in writing, numbered from one to twenty-six, inclusive, are true copies of the papers on file in the above entitled cause, and of the opinion and judgment of said Supreme Court in said case.

In testimony whereof, I hereunto subscribe my name and affix the [L. s.] seal of said court, at the city of Washington, this 29th day of April, A. D. 1858.

WM THOS. CARROLL,
Clerk Supreme Court of the United States.

Produced by Judge Watrous.

SUPREME COURT OF THE UNITED STATES.

No. 74, *December term*, 1857.

PATRICK SHANNON, appellant,	}	Appeal from the District Court of the United States for the district of Texas.
<i>vs.</i>		
RAFAEL GARCIA CAVAZOS, MA-		
RIA JOSEFA CAVAZOS, his		
wife, and ESTAFANA Go-		
SEASCOCHEA DE CORTINA.		

This cause came on to be heard on the transcript of the record from the district court of the United States for the district of Texas, and it appearing to the court here, upon the motion of Messrs. Hale and Robinson, of counsel for the appellees, that the decree of the said district court in this cause is a joint decree against several co-defendants, and that Patrick C. Shannon alone has appealed therefrom, without any summons and severance from the rest of his co-defendants; it is the opinion of this court that the case is improperly brought here; on consideration whereof, it is now here ordered, adjudged, and decreed by this court, that this appeal be and the same is hereby dismissed with costs.

Per Mr. JUSTICE McLEAN.

APPENDIX TO TESTIMONY.

During the examination of James Love, the clerk of the federal court at Galveston, he was requested by the committee to furnish transcripts of the orders entered in the Lapsley cases, in the books produced by him before the committee, and of the docket of those cases, to which he and his deputy John S. Jones were examined, and such transcripts were produced, as follows:

No. 1.

Trial docket, April term, 1851.

Hughes 346. John W. Lapsley *vs.* James Marlin; filed January 11, 1851. Continued.

Hughes 347, Taylor. Same *vs.* Charles Duncan; filed January 11, 1851; executed March 5, 1851. Continued.

Hughes 348, Taylor. Same *vs.* Brown; filed January 11, 1851; executed February 17, 1851. Continued.

Hughes 349. Same *vs.* George Bernard; filed January 11, 1851; executed February 17, 1851. Continued.

Hughes 350, Taylor. Same *vs.* David Barton; filed January 11, 1851; executed February 17, 1851. Continued.

Hughes 351, Taylor. Same *vs.* James Barton; filed January 11, 1851; executed February 18, 1851. Continued.

Hughes 352. John W. Lapsley *vs.* Elephas Spencer; filed January 11, 1851; executed February 18, 1851. Continued.

I, James Love, clerk of the United States district court for the eastern district of Texas, sitting at Galveston, certify that the foregoing is a true copy, taken from the trial docket of the court, at April term, 1851, in the order in which they are on the docket, together with all the remarks on said docket; and that these are all the cases, in which Lapsley was plaintiff, made returnable to that term.

JAMES LOVE, *Clerk.*

Hughes 365. John W. Lapsley *vs.* D. R. Mitchell and Warren; filed April 15, 1851. Continued.

Hughes 366, Taylor. John W. Lapsley *vs.* John Barton; filed April 15, 1851. Continued.

Hughes 367. John W. Lapsley *vs.* William Dilk *et als.*; filed April 15, 1851. Continued.

Hughes 368, Taylor. John W. Lapsley *vs.* David Harrington and William Long; filed April 15, 1851. Continued.

I, James Love, clerk of the United States district court, eastern district of Texas, at Galveston, certify that the four above cases are truly copied from the docket of the court for April term, 1851, as well as all remarks made on the docket, and that they were entered on the docket during term time.

JAMES LOVE, *Clerk.*

No. 2.

Copy of record from the minutes of the court in the cases of John W. Lapsley against Marlin and others.

At a United States district court for the State of Texas, held in the city of Galveston, on the 21st day of May, 1851, it being a day in the May term of that court, the following orders appear on the minutes of the court:

346. John W. Lapsley *vs.* James Marlin—continued.

365. John W. Lapsley *vs.* Mitchell & Warren—continued.

366. John W. Lapsley *vs.* John Barton—continued.

And afterwards, to wit: on the 6th day of January, 1852, it being a day of January term, the following orders were entered on the minutes of the court:

347. John W. Lapsley *vs.* Charles Duncan.

This day came the parties by their attorneys, and thereupon the judge presiding having stated that he could not sit in this case by

reason of a personal interest, and of an interest of persons with whom he is connected by blood, in a part of the subject matter in contest, the said parties, by their attorneys, agree that this cause be removed and transferred for trial to the district of Austin. And further, it is agreed that the continuances, and all other orders which have heretofore been made in this court, be corrected to read as made by consent; the same having been so made, and not by the order of court.

348. John W. Lapsley *vs.* James Brown.

This day came the parties aforesaid by their attorneys, and thereupon the judge presiding having stated that he could not sit in this cause by reason of a personal interest, and of an interest of persons with whom he is connected by blood, in a part of the subject matter in contest, the said parties, by their attorneys, agree that this suit be transferred for trial to the district of Austin. And further, it is agreed that the continuances and all other orders heretofore made in this case, be corrected so as to read as made by consent, and not by the order of this court.

350. John W. Lapsley *vs.* David Barton.

This day came the parties aforesaid by their attorneys, and thereupon the judge presiding having stated that he could not sit in this cause by reason of a personal interest, and of an interest of persons with whom he is connected by blood, in a part of the subject matter in this contest, the said parties, by their attorneys, agree that this suit be removed and transferred for trial to the district of Austin. And further, it is agreed that the continuances, and all other orders heretofore made in the case, be corrected, so as to read as made by consent of parties, and not by the order of the court.

351. John W. Lapsley *vs.* James Barton.

This day came the parties aforesaid by their attorneys, and thereupon the judge presiding having stated that he could not sit in this case by reason of a personal interest, and of an interest of persons with whom he is connected by blood, in a part of the subject matter in contest, the said parties, by their attorneys, agree that this suit be removed and transferred to the district of Austin. And further, it is agreed that the continuances, and all other orders heretofore made in this cause, be so corrected as to read as made by consent of parties, and not by the order of the court.

368. John W. Lapsley *vs.* David Heffington and William Long.

This day came the parties aforesaid by their attorneys, and thereupon the judge presiding having stated that he could not sit in this cause by reason of a personal interest, and of an interest of persons with whom he is connected by blood in a part of the subject matter in contest, the said parties, by their attorneys, agree that this case be removed and transferred to the district of Austin. And further, it is agreed that the continuances, and all other orders heretofore made in this cause, be so corrected as to read as made by consent of parties, and not by the order of this court.

366. John W. Lapsley *vs.* John Barton.

This day came the parties aforesaid by their attorneys, and thereupon the judge presiding having stated that he could not sit in this

cause by reason of a personal interest, and of an interest of persons with whom he is connected by blood in a part of the subject matter in contest, the said parties, by their attorneys, agree that this cause be transferred to the district of Austin. And further, it is agreed that the continuances, and all other orders heretofore entered in this cause, be so corrected as to read as made by consent of parties, and not by the order of this court.

365. John W. Lapsley *vs.* Mitchell & Warren—trespass to try title.

This day came the parties aforesaid by their attorneys, and thereupon by reason of the judge of this court not being competent to sit in the case, it is agreed by the said parties, by their attorneys, that James Dunn be, and he is hereby, made a party defendant in this case.

365. John W. Lapsley *vs.* Mitchell & Warren.

This day came the parties aforesaid by their attorneys, and thereupon the judge of this court having stated that he could not sit in this case by reason of a personal interest, and of an interest of persons with whom he is connected by blood in a part of the subject matter in contest, the said parties, by their attorneys, agree that this cause be removed and transferred to the district of Austin. And further, it is agreed that the continuances, and all other orders heretofore made in this case, be so corrected as to read as made by consent of parties, and not by the order of this court.

346. John W. Lapsley *vs.* James Martin.

This day came the parties by their attorneys, and thereupon the judge presiding having stated that he could not sit in this cause by reason of a personal interest, and of an interest of persons with whom he is connected by blood in a part of the subject matter in contest, the said parties, by their attorneys, agree that this cause be transferred to the district of Austin. And further, it is agreed that the continuances, and all other orders heretofore made, be corrected so as to read as made by consent of parties, and not by the order of this court.

I, James Love, clerk of the United States district court, eastern district of Texas, at Galveston, certify that the foregoing is a true copy, taken from the minutes of the court, of all the cases, and all the orders of court made therein, in which John W. Lapsley was plaintiff, against the persons named in the foregoing copy.

JAMES LOVE, *Clerk.*

No. 3.

Extracted from the minutes of the January term.

At a United States district court, held at Galveston, for the State of Texas, on the 6th day of January, 1852, it being a day in January term, 1852, the following appears on the minutes of the court, at page 159 :

JOHN W. LAPSLEY,
vs.
 D. R. MITCHELL and WARREN. } Error.

On motion of John Taylor, esq., and by consent of parties, it is ordered that James Dunn be made a party defendant herein.

On page 168, same term and same day, is the following :

JOHN W. LAPSLEY,
vs.
 JAMES MARLIN. } Erroneously entered.

It appearing to the court that the defendant in this cause resides within the limits assigned to the branch of the district court of the United States for the district of Texas, held at Austin, upon the motion of said defendant, by his attorney, John Taylor, esq., it is ordered that this cause be transferred to the said branch of the said court at Austin, and that the clerk of this court forward the papers and proceedings therein.

On page 170, same term and same day, is the following :

JOHN W. LAPSLEY,
vs.
 MITCHELL and WARREN. } Erroneously entered.

On motion of John Taylor, esq., attorney for the defendants herein, it is ordered that James Dunn, be made a party defendant in this cause.

JOHN W. LAPSLEY,
vs.
 MITCHELL and WARREN. } Erroneously entered.

In this cause it appearing to the court that the defendants reside within the limits assigned to the branch of the district court of the United States for the district of Texas, held at Austin, upon the motion of the said defendants, by their attorney, John Taylor, esq., it is ordered that this cause be transferred to the said branch of the said court at Austin, and that the clerk of this court forward the papers and proceedings therein accordingly, to the said court at Austin, upon the payment of his fees by the said defendant.

I certify that the above on this page appears on the minute book of the court for January term, 1852, and that I have copied the same truly, with all the marks, as they appear on the book, as nearly alike as I could.

JAMES LOVE, *Clerk.*

Agreement between Lapsley and others for the conveyance.

THE STATE OF ALABAMA, }
 Dallas County. }

This indenture, this day made and concluded by and between John W. Lapsley, of the [State] and county aforesaid, of the first part; Thomas M. League and John C. Watrous, of the city of Galveston, in the State of Texas, of the second part; and Thornton B. Goldsby, Westly Pluttenburg and Thomas J. Frow, of the said county of Dallas, and James L. Price, of the county of Perry, in the State of Alabama, of the third part, witnesseth: That the party of the first part has received from the party of the second part their joint promissory note, [*interlined*: for the sum of four thousand five hundred and thirty-two dollars,] payable to his order four years after date, dated the date of this indenture, bearing interest from date. This indenture further witnesseth: That when the said promissory note, with the interest to accrue thereon, (the interest being eight per cent. per annum, the legal interest of the State of Alabama, as specified in said note,) shall have been fully paid to the party of the first part, his legal representatives or assigns; and further, when the parties of the second part shall have made the further payments, hereinafter stipulated to be made by them, in consideration of the premises aforesaid, [*interlined*: the party of the first part covenants] to convey to the parties of the second part, by deed of quit claim, *one undivided half* part of his right, title and interest in and to the lands hereinafter specified and referred to; and also one undivided half part of his interests in certain land certificates, scrip, or warrants, of the State of Texas, and of all lands which may be procured in the State of Texas, by means of the said certificates, scrips, or warrants, hereinafter specified. The lands referred to are described as follows, (with certain reservations or exceptions, hereinafter specified,) to wit: The lands situate in the county of Limestone, in the State of Texas, on and near the Brazos river, east of said river, above the mouth of Tahuacomo creek, and embracing the point formerly known as Tahuacomo village, containing eleven leagues, more or less, and known as, or commonly called, the *La Vega grant*. The following are the certificates, land warrants, or scrip, hereinbefore referred to, to wit: The scrip, certificate, or warrant, issued on the 13th of July, eighteen hundred and thirty-six, (13th July, 1836,) by Thomas Toby to Samuel St. John, jr., numbered as follows: nineteen, (19,) twenty, (20,) twenty-one, (21,) twenty-two, (22,) twenty-three, (23,) twenty-four, (24,) twenty-five, (25,) twenty-six, (26,) twenty-seven, (27,) twenty-eight, (28,) twenty-nine, (29,) thirty, (30,) thirty-one, (31,) thirty-two, (32,) thirty-three, (33,) and thirty-seven (37); also, the certificate, scrip, or warrant, for six hundred and forty acres, known as donation certificate, granted to Wm. M. Casper, by the government of Texas, for participating in the battle of San Jacinto; also, warrant, scrip, or certificate, issued by the general land office of Texas, on the 19th day of February, eighteen hundred and fifty, to Melville Langham, 1450, 1451, for two-thirds of a league and one labor of land. The said above specified lands,

and the warrant, scrip, or certificates, (except the last mentioned, to Melville Langham,) are specified in the deed of conveyance, of the date of this indenture, from the said Thomas M. League to the party of the first part; which said [*interlined*: deed] is now before the parties to this indenture. In addition to the note, hereinbefore specified, to be paid by the parties of the second part to entitle them to the conveyance, hereinbefore [*“specified” erased,*] provided for, they are to pay one-half of all the expenses which may be incurred, counsel and attorney's fees, and other expenses in relation to any suit or suits, or other measures deemed necessary in obtaining possession of any portion of the lands hereinbefore referred to to which there may be adverse claims; and in the selection and location of lands, if it should be deemed advisable to raise the location of warrants, scrip, or certificates, which have been located on the lands, hereinbefore specified, and in employing any agents for any services which may be deemed necessary in relation to said lands, and certificates, warrants, or scrip, or lands which may be procured by means of said certificates, warrants, or scrip.

This indenture further witnesseth: That the parties of the third part, and the party of the first part, together, are entitled to the other undivided half part of the lands aforesaid, and of the said above mentioned certificates, scrip, or warrants, and all the results, profits, and advantages which may accrue from the same, so far as title is invested in the party of the first part, subject to the following terms, stipulations, and conditions: The parties of the third part and the party of the first part are each to be jointly and equally interested in the undivided half part of said lands, and warrants, scrip, or certificates, and also to the proceeds of the said above described note of the said League and Watrous, on the payment by them to the party of the first part of the sum, nine thousand and sixty-four dollars, when required, as they promise and agree to do, and their due proportion of all expenses which may be incurred in relation to said above mentioned lands, warrants, certificates, or scrip, as hereinbefore referred to. The payment of ——— dollars to be made by the parties of the third part is to bear interest from date until paid.

The said lands and warrants, certificates, or scrip, were purchased by the party of the first part for the sum of ——— dollars, with the understanding that one undivided half part of the purchase as made should accrue to the benefit of the parties of the second part, on the terms, stipulations, and conditions hereinbefore specified, and the undivided half part to the party of the first part, and the parties of the third part, to each individual equally on the conditions above specified as to them.

This indenture further witnesseth: That the party of the first part shall have power to sell and convey or otherwise dispose of the whole or any portion of the lands aforesaid, or any lands which may be acquired by means of the said warrants, scrip, or certificates, whenever requested to do so by a majority of the parties in interest, (including the party of the first [part] as one to form said majority,) their legal representatives or assigns; and whenever any sale or sales may be made, or lease, if the note of the parties of the second part shall

not have been paid, together with the other payments stipulated to be made by them, one-half of the proceeds, or so much as may be necessary, shall be applied towards the payment of their said indebtedness, (said note and expenses stipulated to be paid by them;) after which payment the parties of the second part are to receive all that may remain of the one-half part of proceeds; [*interlined* : and so much of the other half of such proceeds] as may be required shall be applied towards the discharge of the indebtedness (if there should be any) of the parties of the third part, [*interlined* : after which payments the parties of the third part;] respectively, shall be entitled to their due proportion, according to the terms of this indenture, of any funds which may remain.

This indenture further witnesseth: That, according to the agreement of the parties, and true meaning and intent of this indenture, the following exceptions and reservations are made in relation to the lands hereinbefore specified; which exceptions and reservations do not come under the operation of this indenture in any respect, that is to say : Six hundred and forty acres sold to one Sutton by Mrs. Sophia J. St. John, or by Jacob D. Cordover, esq., her agent; and three hundred and twenty acres sold by the same to one Puckett; and one-third of a league, (called or known as the C. Gifford league,) claimed by one W. B. Lofton under agreement with the said Mrs. St. John, or her said agent, Jacob D. Cordover, esq. It is understood that the said Mrs. St. John, or her said agent Cordover, executed a lease to one Donahue for a portion of said lands, with the understanding that he could purchase the same, within a time stipulated, at two dollars per acre; which lease, it is understood, has not yet expired, and is still in force. It is further stipulated between the parties, that, after the expiration of five years from the date of this indenture, all the lands aforesaid, and all which may be acquired by means of said certificates, scrip, or warrants, and not previously disposed of, may be sold, either at private or public sale, if desired by a majority of the persons interested, that is, the parties to this indenture, or their legal representatives or assigns, and apply the proceeds as hereinbefore provided; but no sale shall be made, unless a transfer of interest, by any of the parties, until after the expiration of five years from this date, unless desired by parties or persons having or representing the major part of the interest in the land referred to in this indenture.

The following mentioned interlineations in this indenture were made before the execution: On the first page these words, "*the party of the first part covenants;*" on the third page the word "*deed;*" on the fifth page the words, "*and so much of the other half of such proceeds;*" also, on the fifth page, "*after which payments the parties of the third part;*" and an obliteration made near the top of the sixth page, and the words "*three hundred and twenty*" written.

It is agreed between the parties that this indenture may go to record in the orphans' and probate court of the county of Dallas in the State of Alabama, and in the county court of Galveston, in Texas, on the affidavit of one of the subscribing witnesses; and that, in the

event of loss or destruction of the original, a certified transcript to be substituted for the original.

In testimony whereof the said parties have each hereunto set their hands and seals, interchangeably—another indenture of the same tenor and date having been executed—this ninth day of July, eighteen hundred and fifty.

JOHN W. LAPSLEY,	[SEAL.]
JOHN C. WATROUS,	[SEAL.]
THOS. M. LEAGUE,	[SEAL.]
T. B. GOLDSBY,	[SEAL.]
W. PLATTENBURG,	[SEAL.]
THOS. J. FROW,	[SEAL.]
JAMES L. PRICE.	[SEAL.]

Executed in the presence of—the words on the first page, “*for the sum of four thousand five hundred and thirty-two dollars,*” interlined before the execution.

W. SHEARER,
EDWIN SHEARER.

A true copy—attest:

THOMAS J. FROW.

E.

THE UNITED STATES OF AMERICA, }
District of Texas, } *to wit:*

At a term of the district court of the United States, having and exercising the powers and jurisdiction of a circuit court of the same for the district of Texas, appointed by the honorable John C. Watrous, judge of the said court, held at the city of Galveston on the first Monday of January, in the year of our Lord one thousand eight hundred and fifty-four—present, the honorable John C. Watrous, judge of said court, Benjamin McCulloch, esq., marshal, and James Love, clerk.

Among other were the following proceedings, to wit :

RAFAEL GARCIA CAVAZOS, Maria Josefa Cavazos, and
 Estafana Goseascochea de Cortina, compl'ts,

vs.

CHARLES STILLMAN, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Lafon de Tarnava, Ramon Lafon, Feliciano de Tijerina, and Josef Manuel Prieto.

Be it remembered, that heretofore, to wit, on the fifteenth day of January, in the year of our Lord one thousand eight hundred and fifty-two, a decree was rendered in this cause by our said United States district court here ; which is in the words and of the terms following, to wit :

Decree.

DISTRICT COURT OF THE UNITED STATES, }
District of Texas. }

Between RAFAEL GARCIA CAVAZOS, Maria Josefa Cavazos, his wife, and Estafana Goseascochea de Cortina, complainants,
and

CHARLES STILLMAN, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Lafon de Tarnava, Ramon Lafon, Feliciano de Tijerina, and Josef Manuel Prieto, def'ts. } *In chancery.*

This cause came on to be heard at a preceding term of this court, and was submitted to the court by counsel, upon briefs; and the court, not being then fully advised, took time to consider until the present term, when, upon consideration thereof, it was ordered, adjudged, and decreed, as follows : that the bill be dismissed, as to the defendants Richard Fitzpatrick and W. W. Chapman, without prejudice to the complainants, in case they institute any other proceeding against said defendants, and also without prejudice to them in the present

cause, as respects the other defendants herein, and that the complainants pay all the costs incurred by the said Fitzpatrick and Chapman in their defence herein; that the title of complainants as tenants in common with the said Maria Angela Garcia Lafon de Tarnava, Ramon Lafon, Feliciano de Tijirina, and Josef Manuel Prieto, who have been made defendants in and to the tract of land described in the bill, and in the testimonio or copy of the title or grant issued by the proper authorities of the vice-royalty of New Spain to José Salvador de la Garza, and now on file in this cause, that is to say: a tract of land known as the Potrero, or Agostadero del Espiritu Santo, now situated in the county of Cameron, and State of Texas, and bounded and enclosed as follows: on one side by the Rio Grande; on another by the Laguna del Madre, or Laguna Madre, and the Gulf of Mexico; on another by the Arroyo Colorado, or Sal Colorado; and on the last, or western side, by a thicket, or dense wood, extending nearly from the Rio Grande to the said Arroyo Colorado, at a point considerably above the present town site of Santa Rita, including within the said limits the town sites of Freeport and Brownsville, and the site of Fort Brown, be fully established and confirmed as legal, valid, and subsisting; and that the same is, in the judgment of the court, and is so declared to be, a title in estate, in fee simple, in and to the said land derived from the said original grantee, José Salvador de la Garza, and now vested in the said complainants, as aforesaid. That the said complainants ought of right to be quieted in their possession of the said land under the said title, as against the said Charles Stillman, Samuel A. Belden, Jacob Mussina, and Patrick C. Shannon, defendants herein, and protected against the unjust and illegal claims and assertions of title to portions of the said land set up by the said defendants, and from their meddlesome interference with the possession of the complainants, and with the said land, that all claims, grants or titles, whether derived from the ayuntamiento of the town or city of Matamoras, or based upon locations and surveys made upon headright certificates, bounty warrants, or other evidences of title, to land, issued by the republic or State of Texas, or originating in any other way, which were at the time of filing the bill in this cause held, set up, or asserted by the said defendants, or any of them, in and to any portion of the said tract of land, adverse to the title of the said complainants, are in the judgment of this court, and are here declared to be null, void, and of none effect, against the title of complainants as aforesaid; and that all such claims, grants and titles, are hereby annulled and vacated, so far as the said complainants are concerned; that in particular, the following grants, made by the ayuntamiento of Matamoras, of portions of the said lands, alleged to be within what were called the exidos of the said town, at the times and to the persons hereinafter mentioned, which were, at the time of filing said bill, held, set up, and asserted as valid and subsisting titles by the said defendants, or some one or more of them, that is to say: One portion or parcel of said land, called a *labor*, granted to Manuel Vela, on the twenty-fifth day of May, A. D. 1839; one granted to Agapeta Vela, on the —— day of ——; one held by Santos Iberio, prior to Novem-

ber, A. D. 1834 ; one granted to Juan Treador, on the — day of — ; one granted to Manuel Trevino, otherwise called Manuel Trevino Canales, on the sixth day of June, A. D. 1840 ; one known as the property of Catrina Vela, and surrendered by the said Catrina to Walter Henry as syndic of her creditors ; one granted to Onofre Rebalcaba, on the — day of — ; one granted to Manuel Vela, on the nineteenth day of February, A. D. 1842 ; one granted to Manuel Vela, on the — day of — ; one granted to Ignacio Flores, on the sixth day of June, A. D. 1840 ; one granted to Francisco Fragosa, on the — day of — ; one granted to José Navario Garza, on the twelfth day of April, A. D. 1834 ; one granted to Maximo Sierra, on the nineteenth day of April, A. D. 1834 ; one granted to Antonio Salinas, on the nineteenth day of July, A. D. 1842 ; one granted to Vicente Valerio, on the twentieth day of January, A. D. 1844 ; one granted to Miguel Salinas, on the — day of — ; one granted to Leandro Martinez, on the eighteenth day of July, A. D. 1840 ; held, set up, and asserted by the defendants, Charles Stillman, Samuel A. Belden and Jacob Mussina, or some one or more of them, and also to one *labor*, granted as aforesaid to Nicholas Cabazos, otherwise called Nicholas José Cabazos, on the — day of — ; held, set up, and asserted by the defendant, Patrick C. Shannon, be declared to be void, null and of none effect, and be hereby annulled and vacated against the said title of the said complainants ; that the following locations made upon the said tract of land, under headright certificates, or other warrants for land, issued by the republic or State of Texas and held, set up, and asserted as valid in law, by the said defendants or some one or more of them, at the time of filing the bill, that is to say : A location made on the eighth day of January, A. D. 1847, for David Snively, under a headright certificate issued to Henry Hudson, for twenty-six *labors* of land, and a location made on the same day, for the same party, on a warrant for six hundred and forty acres of land ; a location made on the seventeenth day of August, A. D. 1847, for the same party, on a headright certificate for one league and one *labor* of land issued to —, substituting the said certificate for that granted to Henry Hudson, as aforesaid ; a location made on the twentieth day of March, A. D., 1847, for the same party, under a land warrant granted to James St. John, for three hundred and twenty acres of land ; a location made on the same day and for the same party, under another land warrant issued to said James St. John, for three hundred and twenty acres of land ; a location made on the same day, and for the same party, to begin at the lower corner of the last location, and under a headright certificate granted to — ; a location made on the same day for the same party, under a headright certificate for three hundred and twenty acres of land, issued to James Fox ; a location made on the twenty-fifth day of April, A. D. 1848, for the said Snively, under a headright certificate, issued to J. W. B. McFarland, for one league of land ; a location of three hundred and twenty acres of land, adjoining the preceding location ; a location made for the same party, on the donation warrant, number 1,140, granted to —,

for three hundred and twenty acres ; a location made for the same party, under a land warrant, for nine hundred and sixty acres of land, issued to J. W. B. McFarland ; a location made for the same party, under a headright certificate granted to J. Curting, for six hundred and forty acres of land ; locations made for Charles Stillman, one of the defendants, on the seventh day of November, A. D. 1848, under headright certificates, No. 36, for twelve hundred and eighty acres of land, issued to Estafan Villaral, and No. 18, for six hundred and forty acres of land, issued to Sabas Medrano, and under balance of land warrant No. $\frac{5}{6}\frac{3}{2}$, issued to David Snively for nine hundred and sixty acres of land ; the location or locations made for the said Stillman, on the fifteenth day of August, A. D. 1848, under the following headright certificates, to wit : one for three hundred and twenty acres of land, issued to John Chubb, in Galveston county ; one for six hundred and forty acres of land, issued to Francisco Guzman, in Bexar county ; one for six hundred and forty acres of land, issued to Michael Judd, in Galveston county ; one for six hundred and forty acres of land, issued to Juan Rodriguez Montemayor, in Bexar county ; one for six hundred and forty acres of land, issued to Francisco Bartolomies, in Galveston county ; one for three hundred and twenty acres of land, No. 295, fourth class, issued to Antonio Garza, in Bexar county ; one for one-third of a league of land, issued to John B. Fox, in Harris county ; one for six hundred and forty acres of land, issued to Henry H. Wheeler, in Montgomery county ; one, No. 15, fourth class, issued to Henry H. Wheeler, in Grimes county ; a location made for Patrick C. Shannon, on the twenty-fifth day of April, A. D. 1848, under a headright certificate, issued to Tiodonia Sannora, for three hundred and twenty acres, being No. 34, in Nueces county ; a location made for the said Shannon, under a headright certificate, issued to ———— Cunningham, in Galveston county, for three hundred and twenty acres of land ; two locations made for the said Shannon on a headright certificate, issued to Felix de Catanet, for one-third of a league of land, being No. 224, in Brazoria county ; be each and all declared to be null, void, and of none effect, and be hereby vacated and annulled as against the title of the said complainants as aforesaid. That also the following surveys, made under and by color of locations, based upon the certificates and warrants for land, before stated, and held, set up, and asserted, as aforesaid, by some of the said defendants, together with any patents from the State of Texas, therein obtained : that is to say, a survey made for Charles Stillman, on the sixth day of November, A. D. 1848, under the headright certificate No. 111, issued to J. W. B. McFarland by the board of land commissioners for Victoria county ; a survey made for the same party on the eighth day of November, A. D. 1848, under the headright certificate, No. 39, issued to ———— by the board of land commissioners for Nueces county ; a survey made for the same party on the first day of December, A. D. 1848, under the land warrant No. —, issued by the Commissioner of the General Land Office, on the sixth day of April, A. D. 1847 ; a survey made for the same party on the twenty-second day of November, A. D. 1848, under the head-

right certificate, No. 18, issued to Sabas Medrano by the board of land commissioners for Nueces county; a survey made for the same party on the twenty-seventh day of November, A. D. 1848, under the headright certificate, No. 36, issued to Estevan Villarial by the board of land commissioners for Nueces county; also, the survey made for Patrick C. Shannon, under the headright certificates issued to Samera, Cunningham, and Catanet, before mentioned; and all other surveys made in the aforesaid locations, or any other of like nature on the said tract of land, and held and asserted by the said defendants, or any of them, be declared to be null, void, and of none effect, and be hereby vacated and annulled as against the said title of the said complainants; that the said defendants, Charles Stillman, Samuel A. Belden, Patrick C. Shannon, and Jacob Mussina; and each of them, and their and each of their agents, servants, and hirelings, be forever enjoined and restrained from again setting up, claiming, or pretending, any right or title in themselves, or others, by virtue of any of the claims, grants, or titles, herein before generally or specially mentioned and set forth, or others of like nature, in opposition to the title of complainants as aforesaid, and from in any way intermeddling with the said tract of land, or any portion thereof, without the license of the said complainants; that they be further forever enjoined and restrained from selling, leasing, or otherwise disposing of any portions of the said tract of land, and from receiving any money therefor, and from selling, leasing, or otherwise disposing of any lots in the so called town or city of Brownsville, and giving titles therefor, and receiving any payments in money, or in any other way for the same, without the license of the said complainants; and that a writ of injunction in the penalty of twenty thousand dollars, as well as all other proper and usual process, be issued for the purpose of enforcing this decree, and for the objects herein stated: but nothing herein contained shall be construed to prejudice or affect the rights of persons not parties in this cause, nor claiming under such parties.

And it is further ordered, adjudged, and decreed, that the costs of the parties in this cause be referred to James Love, esq., as master in chancery, to be taxed; and that the complainants pay all the costs of the defendants, Angela Garcia, Lafon de Tarneva, Ramon Lafon, Feliciano de Tijirina, and Josef Manuel Prieto; and that the other defendants, Charles Stillman, Samuel A. Belden, Jacob Mussina, and Patrick C. Shannon, pay all the costs properly incurred by the said complainants herein, and that proper process issue to enforce the payment of the same, when determined by the said master.

The name "Shannon," on the first page, was erased, and the words "held, set up, and asserted by the said defendant, Patrick C. Shannon," were written at the side of the fourth page before signing.

JOHN C. WATROUS.

JANUARY 15, 1852.

And afterwards, to wit, on the sixteenth day of April, in the year of our Lord one thousand eight hundred and fifty-two, a copy of the

writ of injunction in this cause issued from the clerk's office of this court, in the words following, to wit :

UNITED STATES OF AMERICA, } *to wit:*
District of Texas.

Charles Stillman, Samuel A. Belden, Jacob Mussina, and Patrick C. Shannon, and each of them, and their and each of their agents, servants, and hirelings, greeting :

Whereas lately in the district court of the United States for the district of Texas, sitting in equity, at the January term thereof in the present year, a decree was rendered in a certain cause therein depending, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Goseascochea de Cortina were complainants, and you, the said Charles Stillman, Samuel A. Belden, Jacob Mussina, and Patrick C. Shannon, together with Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Lafon de Tarnava, Ramon Lafon, Feliciano de Tijirina, and Josef Manuel Prieto were defendants, by which decree it was, among other things, ordered that a writ of injunction should be issued for the purpose and objects therein stated.

You are therefore hereby, in consideration of the premises, strictly enjoined and commanded, under the penalty of twenty thousand dollars, to be levied on your and every of your goods, chattels, lands, and tenements, that you and every of you do forever hereafter absolutely desist from setting up, claiming, or pretending any right or title in yourselves or others, by virtue of any claims, grants, or titles derived from the ayuntamiento of the town or city of Matamoros, or based upon locations and surveys made upon headright certificates, bounty warrants, or other evidences of title to land issued by the republic or State of Texas, or originating in any other way, which you may have heretofore held, set up, and asserted adversely to the title of the said complainants, derived under a grant from the proper authorities of the vice-royalty of New Spain to José Salvador de la Garza, in and to a certain tract of land known as the Potrero, or Ayertadero del Espiritu Santo, now situate in the county of Cameron, State of Texas, and bounded and enclosed as follows : on one side by the Rio Grande ; on another by the Laguna del Madre, or Laguna Madre, and the Gulf of Mexico ; on another by the Arroyo Colorado, or Sal Colorado ; and on the last and western side by a thicket or dense wood extending nearly from the said Rio Grande to the said Arroyo Colorado, at a point considerably above the present town site of Santa Rita, including within the said limits the town sites of Freeport and Brownsville and the site of Fort Brown, whether such grants, claims, or titles so heretofore asserted by you are specially or generally mentioned and set forth in the said decree, and from setting up, claiming, or pretending any such right or title by virtue of any other grant, claim, or title of like nature with those hereinbefore mentioned.

And you and every of you are also hereby further strictly enjoined

and commanded that you forever hereafter absolutely desist from in any way intermeddling with the said tract of land above described, or any portion thereof, without the license of the said complainants, and especially from selling, leasing, or otherwise disposing of any portions of the said tract of land, and from receiving any money therefor, and from selling, leasing, or otherwise disposing of any lots in the so-called town of Brownsville, and giving titles therefor, and from receiving any payment in money or in any other way for the same without the license of the said complainants.

Witness the Hon. John C. Watrous, judge of said court, and the seal of said court, at the city of Galveston, this sixteenth day of April, in the year of our Lord one thousand eight hundred and fifty-two, and of the independence of the United States the seventy-sixth.

JAMES LOVE, *Clerk.*

RAFAEL GARCIA CAVAZOS and others	} No. 41. In chancery.
<i>vs.</i>	
CHARLES STILLMAN and others.	

I, James Love, clerk of the district court of the United States for the district of Texas, at Galveston, certify that the foregoing is a true copy of the writ of injunction issued in the above entitled cause.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, this seventeenth day of April, in the year of [L. s.] our Lord one thousand eight hundred and fifty-two, and of the independence of the United States the seventy-sixth.

JAMES LOVE, *Clerk.*

And thereupon is the certificate of J. W. Gurley, United States commissioner, in the words following, that is to say:

UNITED STATES OF AMERICA, }
Eastern District of Louisiana, city of New Orleans. }

Be it remembered, that on this 5th day of May, A. D. 1852, before me, J. W. Gurley, a commissioner duly appointed by the circuit court of the United States for the fifth circuit and district aforesaid, under and by virtue of an act of Congress entitled "An act for the more convenient taking of bail and affidavits in civil causes depending in the courts of the United States," passed February 20, 1812, personally appeared N. W. Butler, a person of sound mind and lawful age, a duly appointed and sworn deputy of the marshal of the United States for the district aforesaid, and to me well known, who, being by me duly sworn, made oath and said: that on this fifth day of May, A. D. 1852, he, the said deponent, did deliver personally to Jacob Mussina, now residing in the district and city aforesaid, and one of the defendants in a certain cause in chancery pending in the district court of the United States for the district of Texas, named in the writ of injunction hereinafter mentioned, at his domicile, in the said city of New Orleans, a copy certified under the seal of the

said district court, of a writ of injunction issued in the said cause, of which said copy the within and foregoing paper writing is a true and literal copy.

N. W. BUTLER.

In testimony whereof, I have hereunto set my hand and seal, in [L. s.] the city of New Orleans and district aforesaid, this 5th day of May, A. D. 1852.

J. W. GURLEY,
United States Commissioner.

And thereupon is the following :

CIRCUIT COURT OF THE UNITED STATES, }
Eastern District of Louisiana.

I hereby certify that J. W. Gurley, whose name is hereon below written as a commissioner, is a commissioner of the United States for the eastern district of Louisiana, duly appointed and sworn, and that his said signature is genuine.

Witness my hand and the seal of said court, at New Orleans, this [L. s.] 5th day of May, 1852.

J. W. GURLEY, *Clerk.*

And thereupon, and a part of the foregoing document is a certificate, under the hand and seal of the judge of the eastern district of Louisiana, in the words following, to wit :

I, Theodore H. McCaleb, United States judge for the eastern district of Louisiana, do hereby certify that John W. Gurley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court ; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

[L. s.] Given under my hand and seal, at the city of New Orleans and district aforesaid, this 5th day of May, A. D. 1852.

THEODORE H. McCALEB,
United States Judge.

And afterwards, to wit : on the fourth day of January, in the year of our Lord one thousand eight hundred and fifty-four, came the surviving plaintiffs, by their attorneys, and moved the court for a rule on Jacob Mussina, one of the defendants, in the words following, to wit :

DISTRICT COURT OF THE UNITED STATES, DISTRICT OF TEXAS, AT GALVESTON.

RAFAEL GARCIA CAVAZOS *et als.*, complainants, }
vs. } In chancery.
CHARLES STILLMAN *et als.*, defendants.

The surviving plaintiffs in the above entitled cause, to wit : Maria Josefa Cavazos and Estafana Goseascochea de Cortina, suggesting

deaths of Rafael Garcia Cavazos and Manuel Prieto, now by their counsel, move this honorable court to grant them a rule or order requiring Jacob Mussina, one of the defendants therein, at a day to be fixed by the court, to show cause why an attachment should not issue against him for a contempt of this court in disobeying the order and injunction of the court contained in the final decree rendered in the said cause, in the following particulars: first, by persisting in setting up, and still claiming a title in himself to a portion of the lands mentioned in the said decree, as to which he is thereby enjoined against the said plaintiffs before the several departments of the government of the United States, at the city of Washington, D. C., and particularly before the Quartermaster General and Secretary of War, on or about the eighteenth day of August, A. D. 1852, and thereafter, to the great injury of the said Maria Josefa Cavazos; second, by setting up and asserting such claim of title on a suit instituted by him on or about the twenty-sixth day of March, A. D. 1852, in a suit instituted by him in the fourth district court of the city of New Orleans, and State of Louisiana, against William Alling, Charles Stillman, Samuel A. Belden, Elisha Basse, and Robert H. Hord; and third, by claiming and asserting such title in himself to a portion of the lands aforesaid by his parol declarations and written statements, made by himself or his authorized agents, constantly and repeatedly, since the said final decree in this cause was rendered.

And in support of this motion the said plaintiffs refer to the affidavit of R. H. Hord, and to the document filed therewith, marked B, and to the documents certified by C. M. Conrad, Secretary of War, also filed herewith, and marked A, and pray leave to examine such witnesses as may be necessary in reference to the matters herein stated.

ALLEN & HALE,
Solicitors and Counsel for Plaintiffs.

JANUARY 4, 1854.

And thereupon, to wit: on the same day and year, came the plaintiffs by their attorneys, and filed an affidavit of Robert H. Hord, referred to in the foregoing motion, which is in the words and of the tenor following, to wit:

Affidavit.

DISTRICT COURT OF THE UNITED STATES, DISTRICT OF TEXAS, AT GALVESTON.

RAFAEL GARCIA CAVAZOS <i>et als.</i>	} No. 41.
<i>vs.</i>	
CHARLES STILLMAN <i>et als.</i>	

The affidavit of Robert H. Hord, in relation to the matters stated in the motion for a rule to show cause upon Jacob Mussina.

Robert H. Hord, a citizen of Cameron county, in the State of Texas, makes oath and says, that, about the month of June, A. D. 1852, this

affiant, together with McClintock Young, of the city of Washington, D. C., as the agents of Doña Maria Josefa Cavazos, and her husband, Rafael Garcia Cavazos, two of the original complainants in the above entitled cause, presented to Major General Thomas S. Jesup, Quartermaster General of the United States, a claim in behalf of the said Maria Josefa Cavazos and her said husband against the United States, for the occupation and use of the land on which Fort Brown is situated, during several years past by the troops of the United States as a garrison and military post, and thereafter, from day to day thereafter, urged upon the attention of that officer, and of C. M. Conrad, then Secretary of War, the settlement of said claim. And on or about the 13th day of August, A. D. 1852, the said quartermaster general referred the matter to the said Secretary of War for his decision; and while the same was under the consideration of that officer for settlement, William Alexander, esq., one of the attorneys and solicitors of this court, personally and by letter, and a protest in writing, interfered in behalf of Jacob Mussina, one of the defendants in the above entitled cause, and prevented, as this affiant believes, the adjustment and payment of said claim by the United States to the said Maria Josefa Cavazos.

This affiant further states, that the said land in which the said Fort Brown is situated, lies within the tract described in the final decree rendered in the above entitled cause.

This affiant further says, that, about the spring of the year 1852, this affiant and Elisha Basse and Samuel A. Belden, were served with a citation and copy of a petition from the fourth district court of New Orleans, in the State of Louisiana, in a suit instituted by Jacob Mussina aforesaid, against William Alling, Charles Stillman, and the parties above named; and that the paper, marked (B,) herewith filed, is, to the best of this affiant's recollection and belief, a true copy of the original petition in said cause.

This affiant further says, that judgment has been rendered in said cause in favor of the said plaintiff by the said court, and that the said cause is now pending in appeal in the supreme court of Louisiana.

R. H. HORD.

Sworn and subscribed before me, this 4th January, A. D. 1854.

JOHN S. JONES,

United States Commissioner.

And thereupon, to wit: on the same day and year, the plaintiff filed in evidence the following document, referred to in his motion for a rule, &c.; which is as follows, that is to say :

DOCUMENT B.

Rent of seven tenements or houses to be occupied as United States store-houses.

Captain G. H. Crossman, A. Q. M., with Miguel Salinas, camp on the Rio Grande, near Matamoras, April 14, 1846.

Articles of agreement, made and concluded at camp near Matamoras this 14th day of April, 1846, by and between Captain G. H. Crossman, assistant quartermaster United States army, for and in behalf of the United States, of the first part, and Miguel Salinas, a Mexican, owner of the lands now occupied, in part, by the army of occupation, of the second part, witnesseth:

Firstly. That, for and in consideration of the compensation hereinafter stipulated, the aforesaid Miguel Salinas hereby covenants and agrees to the renting and leasing to the United States, and does hereby rent and lease to the United States, for the purpose of being used as storehouses for the public supplies of the army, seven tenements or houses, to be occupied for the storage of supplies, or for any other public purpose, so long as they may be required by the army; hereby granting permission for any alterations or changes in said buildings (without impairing their value) which may be deemed necessary for the public service.

Secondly. And it is hereby agreed and provided, on the part of the United States, by the said Captain G. H. Crossman, assistant quartermaster, party of the first part, that the sum of one dollar and fifty cents per day, in legal currency of the United States, shall be paid to the said Miguel Salinas, or his legal representatives, payable monthly, for the period the said seven tenements or houses shall be occupied for public purposes, as expressed in the first article of this agreement, or in the same proportion for either or any of them; the rent to commence from and including the 14th day of April, 1846, the day they were first occupied for the use of the army. The said rent to be in full compensation of all the demands against the United States for the use of the buildings, tenements, or houses aforesaid.

In witness whereof, the contracting parties have hereunto affixed their hands and seals, in triplicate, the day and place before mentioned.

G. H. CROSSMAN, [SEAL.]

Assistant Quartermaster United States Army.

MIGUEL SALINAS. [SEAL.]

Signed, sealed, and delivered, in presence of—

G. O. HALLER, *2d Lieut. 4th Infantry.*

J. R. CONRAD, *Assistant Surgeon.*

Approved:

Z. TAYLOR,

Brevet Brig. Gen., U. S. A., Commanding.

ASSISTANT QUARTERMASTER'S OFFICE,
Brazos Santiago, August 3, 1849.

GENERAL: I had the honor to receive, three days since, your letter of July 14, and a copy of one from Messrs. Allen & Hale, of Galveston, relative to the land at Fort Brown.

In order to comply with your instructions, it will be necessary to give a detailed account of the manner in which possession was taken of said land, and of all other acts of mine connected with this matter from that time to the present.

Some time in the month of June, 1848, soon after information was received that peace was re-established between the United States and Mexico, Colonel Davenport, 1st infantry, then commanding at Matamoras, directed me to remove all public property to the other bank of the river, at or near Fort Brown, as the site of old Fort Brown was liable to inundation during the highest rise of the Rio Grande. I selected a point about a quarter of a mile above, which had never been subject to overflow. He examined, fully approved of my selection, and directed me at once to proceed in the erection of storehouses, offices, &c. General Wool, then commanding the army of occupation, in company with Colonel Davenport, several staff officers, and myself, examined the site, and also expressed his approval. He soon after ordered the erection of quarters and barracks for the officers and troops. Major Vinton, then chief quartermaster of the army of occupation, visited the spot, and after having declared himself much pleased with the selection, fixed the upper or west boundary of the site; that is, the line between the garrison and the town of Brownsville. He at the same time directed me to take as much back from the river as might be needed for military purposes, saying that he would not then determine that boundary. Neither was the lower boundary fixed, but it was understood to be to the head of the river.—(See the accompanying map, which has been drawn from recollection, and not from a survey of the ground.)

Before taking possession, Colonel Davenport directed me to ascertain the ownership of the land, and for what price it could be hired. I soon discovered that the title was in dispute, and that there were several claimants to different portions. I, however, satisfied myself that Charles Stillman was in *actual possession* of that portion on which we wished to build, and that he had purchased of Mexicans who had been in possession twenty years. I procured his full permission to take and occupy the land, with the understanding that whenever it should be decided in the proper courts that his title was good, that he was to be paid a reasonable rent. I reported what I had done to Colonel Davenport and Major Vinton, and they agreed with me that under the circumstances it was all that could safely be arranged. After we had taken possession several other persons came forward as claimants to portions of this land. I told them, as soon as the proper courts should determine who were the legal owners, that I would pay a reasonable rent. All, without exception, expressed themselves, or appeared, satisfied with this fair arrangement.

A fence was put up between the garrison and Brownsville, and run back from the river, say one-eighth of a mile. No other fence was put up, or boundary defined, until recently. It was the opinion of Major Sherman, Major Lamotte, Colonel Wilson, and Colonel Morris, the commanding officers who successively succeeded Colonel Davenport, that the United States should take for military purposes all the land included in the red lines on the enclosed map. Lieutenant Whiting, of the engineer corps, who was sent to Fort Brown by Major General Worth to examine this site, was fully of the same opinion. About three months since Colonel Morris, the commanding officer, went with me and staked out the northern boundary, directing me to put a slight fence from the end of the fence first constructed to the bend of the river. The land of which the United States now has possession is that embraced within these two fences and the river, or that within the red lines on the map.

When we took possession of said land, there were no crops, fences, hacales, cabins, or corrals of *any description* on the premises; therefore none could have been destroyed. A fence, made of brush, was put up last winter in a portion of it; a few feet of this was removed, by order of Colonel Morris, when we staked out the line.

As General Wool, Colonel Davenport, and Major Vinton went over this ground before we took possession, they will be able to corroborate my statement, and I respectfully request that they may be referred to on the subject.

Not a stick of wood or timber was cut by the quartermaster's department, or by the troops, after we crossed the line, in June, 1848. All the wood used was purchased by contract. I have cut all the hay used at the post on our extensive prairie, about eight miles from Fort Brown; this, however, has been no injury to any one, as the grass on this prairie is never gathered; other persons once claimed, through Rice Garland, their attorney, compensation for the grass cut by me on said prairie; but I would not listen to this claim, as I considered it to be trifling and obscured, (and I believe the whole community would bear me out in this opinion.) I presume the claim has been abandoned, as I have heard nothing for several months on the subject. I am under the impression that the farm, as run by Colonel Morris, does include a few acres not owned by Charles Stillman, but no objection was ever made to me about its being taken by the United States.

Having answered all the points in your letter, I deem it proper to allude to the complaints made against me by Messrs. Allen and Hale, in behalf of their client, Don Rafael Garcia Cavazos. In the first place, I do not know that I have ever seen Don Rafael Garcia Cavazos. I have had no intercourse with him except through his agent and son-in-law, John Treanor, an Irishman by birth, and a man without *character or standing* in the community.

Soon after the United States took possession of Mr. Stillman's land, he came to me and spoke of his father-in-law's claim to said land; at the same time he acknowledged that Mr. Stillman's claim to a part of it was perfectly good, and was not claimed by Don Rafael

Garcia Cavazos. I told him, politely, that it seemed impossible to determine then who were the legal owners of the land; that the United States wished a portion of it for military purposes, and that whenever it was ascertained in the proper courts who were the legal owners, they would be paid a reasonable compensation for the use of the same. He left, expressing himself perfectly satisfied with this arrangement. Soon after this some persons ran a brush fence across a portion of the land we had designed to take; this crossed a road we had been in the habit of using, and I directed enough to be taken down to allow the passage of a carriage or wagon. A few days after the said John Treanor spoke to me in a rude, discourteous manner, about my removing the fence. I replied that I had great doubts as to the validity of his father-in-law's claim; that until it was settled I should keep the road open if I chose. The fence was, however, put up, and, to avoid any further difficulty, I did not again molest it.

Some time in December last, the said John Treanor asked me if I was paying rent for the land occupied by the United States near Fort Brown. I told him, *most distinctly*, that I was *not*, and should not until I received instructions from the Quartermaster General to do so; yet, soon after, he stated to General Worth, in Galveston, that I was paying rent for said land. This led to the following correspondence between General Worth and myself:

GALVESTON, TEXAS, *January 11, 1849.*

SIR: It appears that the United States, through its financial agent, has paid, or contracted to pay, a certain sum per month as rent for the ground on which Fort Brown is situated, and also for certain grounds in and about Brownsville, Texas; that titles to said lands are in dispute, and the subject now before the courts of the State of Texas. Under these circumstances, the commanding general directs that all payments of said rents, in every form and shape, be withheld until the decision of the courts, or the special orders of the Quartermaster General in reference thereto. You will make acknowledgment of these instructions, and special report on the subject.

By order of Major General Worth, commanding 8th and 9th military departments.

J. C. PEMBERTON,
Brevet Major and A. D. C.

Major W. W. CHAPMAN,

And whoever may succeed him as quartermaster at Fort Brown.

ASSISTANT QUARTERMASTER'S OFFICE,
Brazos Santiago, Texas, January 24, 1849.

MAJOR: Your letter of January 11, 1849, was received yesterday. I have the honor to report that the general commanding has been entirely misinformed in regard to the rent of the land at or near Fort Brown. Knowing that there were at least four distinct claims, and

double the number of claimants, I have invariably replied to all applicants for rent of said land, "forward the evidence of your title to this land to the Quartermaster General, and when I receive orders from him for the purchase or lease of it, I shall act, and not before."

I have never paid anything, or given any one the least intimation of the probable amount that would be paid. It may be proper further to remark that no back rents have been paid, or leases made for any land occupied by the United States, in the district of the Rio Grande, (including Brazos and Point Isabel,) excepting at the mouth of the river. By direction of the Quartermaster General, Major Vinton drew up the terms of a lease of that land, and required me (as he had not time) to execute it. This lease will, however, be given up on or about the 1st of March next.

I am, major, very respectfully, your obedient servant,

W. W. CHAPMAN,

Brevet Major and Assistant Quartermaster.

Major J. C. PEMBERTON,

A. D. C., San Antonio, Texas.

CHIEF ASSISTANT QUARTERMASTER'S OFFICE,

San Antonio, February 3, 1849.

MAJOR: On my arrival at this post yesterday I had the pleasure to receive yours of the 24th ultimo, and also some letters or reports from Lieutenant Whiting, for General Worth, of the above date. Your communication to General Worth, of the above date, was also received by him, and he directs me to acknowledge the receipt thereof, and to express his entire satisfaction therewith.

Very respectfully, your obedient servant,

E. B. BABBETT,

Chief Assistant Quartermaster.

Major W. W. CHAPMAN,

A. Q. M., Brazos, Santiago.

When he (John Treanor) returned to Fort Brown, I told him, in my office, in the presence of the commanding officer and five or six other officers, that he had stated to General Worth what was false, and what he knew to be false when he made the statement, and that therefore I wished no further intercourse with him.

Some two months afterwards he asked me at the Brazos if I would allow him to go to Lavaca in a government steamer. I replied distinctly, no! In my absence from the office he paid my clerk his passage, and put his trunk on board the steamboat; so soon as I learned this fact, I had his passage money returned to him, and sent word by my clerk that he could not go on the boat. He immediately came to the office and commenced speaking on the subject of his going in the boat. I told him I would thank him to leave the office and the public grounds. This is the last interview I had with John Treanor. Don Rafael Cavazos has never seen Messrs. Allen and Hale, the said

John Treanor being the organ of communication. It is from this man that they have received a statement of "acts committed by the assistant quartermaster at Fort Brown," which they designated as acts of "tyrannical oppression, dangerous to our reputation abroad."

When Colonel Morris and myself were running the fence, we saw an old man near a rancho, and I told him to tell his peonas (slaves) that if they molested our stakes they would be punished. I afterwards understood that this old man was Don Rafael Cavazos.

Don Rafael Cavazos claims 59 leagues of land in the vicinity of Matamoras, from an old Spanish grant, but I am informed from a reliable source that even this title is defective.

However, by the old Spanish law, revived and now in force in the Mexican code, all land lying within one league of the plaza of any city is to be surrendered forever, by the owners, for city purposes. Until this said land is required, the corporation of each city has the power to lease it in qualities of 1,000 varas square, called labors; the terms are, that the lessee shall pay to the city one dollar and fifty cents (\$1 50) yearly for each labor, and that they shall hold possession until said labors are actually required for new streets, &c.; so that if they are never needed, the leases are perpetual. These labor titles are transferrable. The corporation of the city of Matamoras has been in possession of said league of land for some twenty years. I believe that all or nearly all of the land now in possession of the United States at or near Fort Brown is embraced in the original league grant to the city. Mr. Stillman claims his land under a purchase of these labor titles, and I cannot see that Don Rafael Cavazos has a shadow of a title to that portion originally granted to the city of Matamoras. Such is the opinion of most of the Mexicans and Americans residing in Matamoras and Brownsville.

It may be proper to remark that there are several headrights located on this same tract. A suit, however, between Don Rafael Cavazos and Charles Stillman is now pending in the district court at Galveston; it has been deferred to the October term of the court, to enable the parties to procure testimony. Under these circumstances, I would respectfully recommend that no action be taken in this matter by the department until the case is decided in said court. A claim for rent, damages, &c., for the land occupied by the United States at Brazos Santiago, has been presented by L. Dobbin, amounting to \$25,000; but as he has furnished no evidence of his title, and as there is another claimant to the same property, I have taken no steps in the case.

One of the claimants to Point Isabel has informed me that he shall soon bring in a claim for rent, damages, &c., of about \$25,000.

After the legal proprietors of Fort Brown, Point Isabel and Brazos Santiago are duly declared, there will be much difficulty in settling the amount of rent, damages, &c., which should be awarded; and I would therefore respectfully recommend that a commission or board of experienced and intelligent officers be convened at the proper time to investigate and decide, or report upon each case.

If I may take the liberty to add to this necessarily long communi-

cation, I will say that in this whole affair I have had nothing to regret, except in so far yielding to the irritation of the moment, as to refuse Mr. Treanor the passage he desired to Lavaca. I am perfectly aware that I have no right to refuse a citizen passage on a government boat for any mere personal reasons, and I have only to urge in excuse for this one arbitrary act, the exceedingly perplexing and annoying character of my intercourse with citizens here, arising from the peculiar condition of the frontier. On second thought I should have undoubtedly pursued a more just and magnanimous course.

I have the honor to be, general, most respectfully your obedient servant,

W. W. CHAPMAN,
Brevet Major and A. Q. M.

Major General T. S. JESUP,
Quartermaster General, Washington, D. C.

QUARTERMASTER GENERAL'S OFFICE,
Washington City, August 13, 1852.

SIR: I have the honor to submit a claim of Don Rafael Garcia Cavazos for the use of the grounds occupied by the troops of the United States from the 20th March, 1846, to the 1st July, 1848, being from the arrival of the army under the command of General Taylor on the Rio Grande, until the termination of the war with Mexico; and also from the latter date to the 1st of August, 1852.

The history of the case, as derived from the reports of Major Crossman and Major Chapman, and from the testimony presented, as nearly as I can get it, appears to be this: When the army arrived opposite Matamoras on the 18th of March, 1846, it encamped on a plantation, a part of the grounds of which were under cultivation in cotton, corn, beans, &c. The crops, about six inches high, were destroyed. Had they been mature, it was estimated they would have been worth about nine hundred dollars. Several small jackalls or huts, and a corral or cattle yard, were within the limits of the camp. These were claimed as belonging to the reputed owner, Don Miguel Salinas, who was found in possession, and of whom they were hired under a written contract, (a copy of which is appended, and marked A,) at one dollar and fifty cents per day. In the attack on Fort Brown the enemy took shelter in these buildings, and they were destroyed by order of the late Major Brown. They were worth about five hundred dollars. The fences were set on fire by the enemy, but the fire was extinguished by the troops, and the materials taken into the fort and used in the construction of bomb proofs, and for fuel.

The war being closed, and orders having been given to withdraw the troops and public property from Mexico, the commanders on the Rio Grande, it is understood, were required by the War Department to select suitable sites to be occupied for the defence of the frontier. Colonel Davenport, then commanding at Matamoras, directed Major

Chapman to select a site above and near to Fort Brown, for the troops and stores. A site was selected about a quarter of a mile above Fort Brown. Colonel Davenport visited the place, approved the site, and directed that storehouses, offices, &c., should be built.

General Wool, then commanding the army of occupation, examined the site, in company with Colonel Davenport and several other officers, approved of it, and directed that quarters for the officers and barracks for the troops be erected.

Colonel Davenport directed that the ownership of the land should be ascertained. There were many claimants, but Mr. Charles Stillman was then in actual possession. Major Chapman, with his permission, took possession of the land with the understanding, as he reports, that whenever it should be ascertained by the decision of the proper court that his title was good, a reasonable rent was to be paid. By a recent decision of the United States district court for the district of Texas the land is adjudged to belong to the claimant, Cava-zos.—(See papers marked B.) Until the lands were taken possession of, by order of General Taylor in 1846, the Mexican republic was in possession of the country to the desert north of the Rio Grande, and held it by military force. Texas claimed the territory to the Rio Grande, but not having conquered it, Mexico had a right to hold it if she could, and her title to it depended upon her ability to hold it. General Taylor consequently took possession of it, and held it to the close of the war by a belligerent title. The claimant is a citizen of Mexico, and, it is understood, an inhabitant of Matamoras. Whether he should be now placed in a better condition than any other Mexican citizen whose property was used during the war by the military, I think doubtful. That question I respectfully submit to the honorable Secretary of War. As far, however, as the public agents entered into contracts, we are unquestionably bound in good faith to fulfil them; but the contracts were limited to a compensation of one dollar and fifty cents a day for the cabins and cattle pen on the land, when it was occupied, and these contracts probably terminated with the destruction of the buildings; but having rented them, it is a question whether we are not bound to pay for them, they having been destroyed by order of the commanding officer.

From the close of the war the public are bound by the arrangement made by Major Chapman with Charles Stillman, who was actually in possession, to pay a fair rent for the land; but the difficulty is how to determine what would be a fair rent. Colonel Thomas, now in this office, who is well acquainted with the site occupied, considers the charge for rent entirely too high. Under the decree of the district court the claimant could eject us at once, and take possession of all the buildings erected on the land.

I respectfully recommend that authority be given by the honorable Secretary of War, either to this department or to General Smith, to make an arrangement with the owners for the permanent occupancy of this site, as well as for the rent from the close of the war to the date charged in the account submitted.

I submit a report of Major Crossman, giving the facts in relation

to the original establishment of the troops upon the site, and the contract with Mr. Salinas ; also a report of Major Chapman in relation to the arrangement with Mr. Stillman, whose title has merged in that of Mr. Cavazos.

And I have the honor to be, sir, your obedient servant,

THOS. S. JESUP,

Quartermaster General.

Hon. C. M. CONRAD,

Secretary of War, Washington City.

WASHINGTON, *August 10, 1852.*

SIR : Mr. Jacob Mussina, of New Orleans, claims the whole of the real estate upon which the town of Brownsville and its environs are situate. Suits have been brought by him, and are now pending in the State courts at New Orleans and in the federal court at Galveston for said property and the mesne profits thereof, which are of great value. Being one of his solicitors in the suits pending in Texas, (for there are more than one pending in that State,) and having casually learned that a claim is now asserted before the department by McClintock Young, esq., in behalf of the heirs of Cavazos, and having personal knowledge of the fact that the chancery suit (already decided) of Cavazos *et al. vs.* Stillman, Belden, Mussina, *et al.*, is not conclusive as to either the title or possession and *mesne* profits (for the complainants, Cavazos *et al.*, have already brought a *common law suit* for the possession and mesne profits, which is now pending in the federal court at Galveston) of the premises, I have this day mailed a protest to General Jesup against the payment of the ————— claim of the heirs. As Mr. Mussina is now in New Orleans, and is not apprised of the assertion of this claim before the department, I have deemed it incumbent upon me, under the existing circumstances, to respectfully request that he be allowed a hearing in opposition to the claim of Cavazos *et al.*, and that he have time allowed him to send to Texas and procure transcripts of the records of the suits referred to, which will, it is submitted, defeat the claim of his opponents.

As the heirs of Cavazos have no property in the United States except that in litigation in those suits, if the claim they now assert is paid he will be wholly without remedy so far as they are concerned. Besides, he holds a part of the property in controversy, (an undivided interest,) by title ——— through them, and in consequence, were his title to the whole property to be adjudged insufficient, would, at all events, be entitled to his *pro rata* of the rents. I have taken the liberty, under the circumstances, of addressing the department directly by letter. A reply addressed to me, to the care of the Hon. V. E. Howard, will be promptly attended to.

With high respect, I remain, in haste, your obedient servant,

WILLIAM ALEXANDER,

One of the Solicitors for Jacob Mussina.

HON. SECRETARY OF WAR.

WASHINGTON CITY, *August 18, 1852.*

SIR: Jacob Mussina, of the city of New Orleans, now hereby protests against the payment of the claim of the heirs of Cavazos for rent alleged to be due for the site of Fort Brown, &c., now pending before the department, and, in support of his protest, makes the following statement, which, if time be allowed him for the procurement and production of the necessary records, he will substantiate by proofs. The said Jacob Mussina alleges that he has been for some time past, and now is, the owner of the *legal title* to an undivided interest of one-fourth of the real estate involved in the suit in chancery of Cavazos *et al. vs.* Stillman, Belden, Mussina, *et al.*, and that he now is the owner of the equitable title to the whole thereof. And he further states that his title to the same was not prejudiced by the decree in said cause, because the court had no jurisdiction thereof, (having taken jurisdiction over the Mexican defendants *by consent*,) and because said decree was obtained through fraud and collusion on the part of divers of the defendants, all of which matters are now litigated in certain suits now pending in New Orleans and in the United States district court for Texas at Galveston, the style of said suits being as follows, as near as recollected: Cavazos *et al. vs.* the most of the landholders of Brownsville, (Mussina included.) This is an action for the possession and *mesne* profits of the real estate litigated in the chancery suit aforesaid—Mussina *vs.* Basse and Hord—a suit in chancery, by which Mussina sets up his equitable title, and asks that he may be subrogated to the purchase made by Basse and Hord (originally attorneys for all the defendants in the chancery suit aforesaid) of the real estate in litigation, Mussina *vs.* Alling, Hord, Belden, *et al.*, (in New Orleans,) for said real estate, (the court being asked to decree title, and to enforce its decree by means of its jurisdiction over the persons of the defendants,) and for damages for a conspiracy with the heirs of Cavazos *et al.* in the chancery suit first herein named. And said Jacob Mussina files this his protest, and says that he protests against the payment of the whole and of each and every part of the pretended claim of the heirs of Cavazos aforesaid, and that he now claims the whole of the rents due for the site of Fort Brown, &c., as his own lawful property; and he now hereby gives notice that if said claim be allowed, he will not regard such allowance as a bar to his rights, and that he will assert, prosecute, and recover the same immediately on the determination of the suit aforesaid from the government of the United States. And he further states that said heirs of Cavazos have no other property in the United States, save their pretended claim to the real estate and *mesne* profits involved in the preceding suits above mentioned.

Respectfully,

JACOB MUSSINA.

Per ALEXANDER,

One of his Solicitors.

General T. S. JESUP,

Quartermaster General of the U. S. Army, &c.

I certify that the foregoing are true copies of the following described papers on file in this department: 1. A contract made by Captain G. H. Crossman, with Miguel Silinas, dated April 14, 1846, for the rent of seven tenements or houses. 2. A report of Major W. W. Chapman on the subject of the possession of certain lands at Brownsville, dated August 3, 1849. 3. A report of General Jesup respecting the rights of certain parties to the rents of certain lands, &c., dated August 13, 1852. 4. A letter of William Alexander, claiming for Jacob Mussina the lands, &c., in question, dated August 10, 1852. 5. A protest of William Alexander, in behalf of Jacob Mussina, against the payment to the heirs of Cavazos of rents due, &c., dated August 18, 1852.

Given under my hand and the seal of the War Department, this [L. s.] first day of September, 1852.

C. M. CONRAD,
Secretary of War.

And afterwards, to wit: on the same day and year the following document, marked document B, (it being the other document referred to in the affidavit and motion aforesaid,) was filed, and is as follows, to wit:

DOCUMENT B.

To the honorable George Strawbridge, judge of the district court of New Orleans:

The petition of Jacob Mussina, of the city of New Orleans and State of Louisiana, sheweth: That on or about the 9th day of December, 1848, in Cameron county, in the State of Texas, he entered into a written contract or agreement with Charles Stillman and Samuel A. Belden, both of whom reside in the State of Texas, but are at present within the jurisdiction of this honorable court, the object of which was to hold jointly all *labors* of land which either of the parties had or might thereafter purchase within what is termed the *exidos* of the city of Matamoras, situated on the left bank of the Rio Grande, embracing the town tract of Brownsville, and the land upon which the United States government improvements exist, as also the locations and rights under Texas certificates, or land scrip, situated within the aforesaid *exidos*; the said purchases and joint interests, at the date of the said agreement, of Texas scrip and locations purchased by Charles Stillman from David Snively, amounting to four thousand six hundred and seventy-six acres; three labors, purchased by Charles Stillman from Doreteo Tamora, Manuel Vela, and Agapeto Vela; six labors, purchased jointly by all the parties to the said agreement and contract from Manuel Trevino Canales; two labors purchased by same parties jointly from Francisco Fragossa.

The said parties further stipulate and bind themselves to sell and convey one to the other, their heirs, administrators, and assigns, so much of all right, title, and interest, by all or either of them, then

held of said land or labor of land, or locations of Texas land certificates, or scrip, that they or either of them might thereafter purchase within the said exidos as would make the said parties to the said agreement and contract hold in the following proportions, to wit: Charles Stillman, one-half of the entire interest then held, or that might thereafter be acquired, by either of the said parties within the said exidos of Matamoras; Samuel A. Belden, one-fourth of the entire interest as aforesaid; and your petitioner, one-fourth of the entire interest as aforesaid.

The said contract further provides that the profits and losses arising shall be shared and divided between the parties, according to their respective shares. The said contract further provides that regular books should be kept, in which all the purchases, sales, transactions, and accounts appertaining to said contract should be entered; and that these books should be open to the inspection of any and all the parties at their pleasure.

And further, that in case of the death of any or either of the parties to said agreement, that the survivor or survivors shall be constituted the agent or agents of the deceased. All of which will more fully appear by a copy of said agreement hereunto annexed as a part of this * * * * * [Note made by clerk.—Here two pages of said copy of petition are missing, and cannot be found.]—1849, wickedly and fraudulently combine together, and entered into a conspiracy with the view, and for the intent and purpose, of cheating and defrauding your petitioner out of his just rights, under the said contract of the 9th December, 1848.

Your petitioner further charges that the said parties did, in their said conspiracy, slander him, by falsely and maliciously charging him with fraud in the public newspapers of the country; that they slandered his titles to the said property: all of which was wickedly and maliciously done with the view and intent of impairing his standing in the community and crippling his pecuniary resources, and thereby force him to onerous and ruinous compromises.

Your petitioner avers that said Stillman and Belden, in fraud of the rights of your petitioner, and in violation of their contract, did, on or about the 14th day of December, 1849, by a pretended sale, and for the pretended price of fifteen thousand dollars, sell and convey unto the said Basse and Hord all the right, title, and interest of themselves, as well as that of your petitioner, acquired under the contract of the 9th of December aforesaid.

Now, your petitioner avers that, in accepting the said purchase, the said Basse and Hord violated the most sacred fiduciary relations then existing between themselves and your petitioner, and also flagrantly abused the trust aforementioned committed to them, both as attorneys-at-law and as agents of your petitioner.

Your petitioner avers that neither in law nor in equity was it competent for said Stillman and Belden to sell, nor for the said Basse and Hord to accept the said purchase, so as to defeat the rights of your petitioner. That the said sale and transfer could only be made for account and for the benefit of your petitioner; that he deems it to

his interest to adopt the purchase of the said Basse and Hord from the said Stillman and Belden, and claims to be the beneficiary thereof; and in accepting such purchases you petitioner is and ever has been willing to take upon himself the obligations contracted by the said Basse and Hord, as expressed in the several deeds now of record.

Your petitioner avers that the said Basse and Hord and the said Stillman and Belden have made large sales of said property, and have realized from the proceeds thereof the sum of one hundred and thirty-six thousand dollars, which they have fraudulently appropriated to their own use, and have refused to account for the same, or any part thereof, to your petitioner or his legally constituted representative, in accordance with their agreement, heretofore referred to; your petitioner never having received any of the consideration on account of sales made.

Your petitioner avers that the said William Alling has maliciously, wantonly, with intent to defraud your petitioner, assisted, aided, and abetted the said Basse and Hord in effecting sales under their said purchase; that he has slandered the titles of your petitioner to the said property, and has falsely represented your petitioner as being without interest or claim thereto; that when the said Basse and Hord were unable to effect sales the said Alling has guaranteed and warranted their said titles, to the great damage and injury of your petitioner.

Your petitioner avers that, at the time of the transfer from Stillman and Belden to Basse and Hord, the value of the property included in said transfer was at least three hundred thousand dollars; that upon this land is situated the town of Brownsville, on the Rio Grande; that the said property had acquired its great value, and was continuing to improve in value, up to the date of the said transfer; that previous to the said transfer titles were freely taken by purchasers at large prices from your petitioner and said Stillman and Belden; that in consequence of the said fraudulent acts and doings of the said Alling, Stillman and Belden, Basse and Hord, public confidence in the said title was impaired, and the value of the said property greatly depreciated, and the growth and advancement of the town greatly retarded, all of which was to the great damage of your petitioner.

Your petitioner avers that the said Basse and Hord are totally and wholly irresponsible for the large amount of property which has thus recklessly and fraudulently been thrown into their hands, especially insomuch that they claim the absolute and sole ownership thereof themselves.

Your petitioner avers that, with a view to defraud your petitioner of his just rights, the said William Alling and Samuel A. Belden, with a full knowledge of the claims and rights of your petitioner, did, on or about the fifth day of January, one thousand eight hundred and fifty-one, for and in consideration of the price of one dollar, purchase and accept title to a certain piece of property included in the contract of the 9th of December, 1848, and also the above mentioned transfer of the 14th day of December, 1849, the said piece of

property described in said deed from Basse and Hord to said Alling and Belden as "a certain tract or parcel of land situated in said town of Brownsville, known and marked in the original map of said town, as drawn by George Lyon, as lot No. (10) ten in block No. fifty-eight, (58,) and the lower half of lot No. nine (9) in said block and adjoining said lot No. ten, the said parcel of ground fronting and bounded by Levee street and by lot No. eleven, and by the upper half of lot No. nine," with all and singular the improvements appurtenant and appertaining thereunto, the said parcel of ground now being in the possession and occupancy of the aforesaid William Alling, Samuel A. Belden, *Samuel A. Belden, Co.*, and their lessees.

Your petitioner avers that, with a view to defraud your petitioner of his just rights, the said Charles Stillman, with a full knowledge of the claims and rights of your petitioner, did, on or about the fifth day of January, one thousand eight hundred and fifty-one, for and in consideration of the price of one dollar, purchase or accept title to a certain piece of property included in the contract of the 9th of December, 1848, and also in the above mentioned transfer of the 14th day of December, 1849, the said piece of property described in said deed from Basse and Hord to said Charles Stillman, to wit: "a certain tract or piece of land situate in the town of Brownsville aforesaid, known and marked upon the original map of that town, as drawn by George Lyon, as lot No. eight (8) in block No. fifty-eight, (58,) and the upper half of lot No. nine (9) adjoining said lot No. eight, the said parcel of ground fronting on and bounded by Levee street, and by Twelfth street, and by the lower half of lot No. nine, with all and singular the rights, numbers, hereditaments, and appurtenances to the same belonging, or in anywise incident?" the said piece of property being now in the possession and occupancy of the said Charles Stillman, Charles Stillman brother, and his or their lessees.

Your petitioner avers that your petitioner and the said Stillman and Belden did deposit with the said Basse and Hord all the surveys, plans, and maps of the different pieces, parcels, and labors of land mentioned and contemplated in and under said agreement hereto annexed; also a plan or map of the town of Brownsville, known as George Lyon's map of said town.

Your petitioner avers that all the contracts and conveyances, with the various purchases of any portion of the said labors or lots of land, made by your petitioner and the said Stillman and Belden, have been made and described by direct reference to the said George Lyon's map of said town of Brownsville.

Your petitioner avers that the said Charles Stillman, Samuel A. Belden, William Alling, Robert H. Hord, and Elisha Basse have combined, conspired, confederated, and agreed together and to aid with each other, secretly, privately, and fraudulently to retain and secrete the said map, and to prevent the same from being recorded in the proper office for that purpose, and fraudulently to retain and secrete from your petitioner other plans, plats, maps, and surveys relating to the aforesaid lands placed by your petitioner and said Stillman

and Belden in the hands of said Basse and Hord, agents and attorneys of your petitioner and the said Stillman and Belden.

Your petitioner avers that he has demanded the said map, known as George Lyon's map of the said town of Brownsville, of the said Stillman, Belden, Basse, and Hord, and the said Stillman and Belden disclaim all knowledge of and control of the said map, and disclaim having any interest therein because of the pretended sale hereinbefore referred to to said Basse and Hord, and the said Basse and Hord refuse to give any positive and certain information touching and concerning the same, except by declarations to withhold said map from being recorded because interfering with their interests as pretended proprietors (in their own right) of the whole town plat or tract embraced within the circuit and proposed limits of the said town of Brownsville; and that they, the said Basse and Hord, have employed the services of George Lyon to make a different map of said town, and have placed the same on record in the clerk's office of Cameron county.

Your petitioner avers that, being somewhat in embarrassed circumstances, occasioned by his large expenditures in purchasing and advancing his several interests on or adjacent to the Rio Grande, and which embarrassment of your petitioner was fully and confidentially known as well to the said Stillman and ——— as to the said Basse and Hord, and having and claiming a certain undivided interest in the lands in and adjacent to the town of Point Isabel, a large portion of the purchase money for the same being unpaid, your petitioner avers that he did consult R. H. Hord, as his attorney as aforesaid, as to the best mode of relieving himself from his said embarrassments; and, in pursuance of the advice of his said counsel, R. H. Hord, on or about the 20th day of October, 1849, an arrangement was effected with the venders and co-proprietors of said Point Isabel land, by which the agent of your petitioner (Simon Mussina) was clothed and vested with authority to sell and convey certain parts and parcels thereof, and as security for the proper disposition of the funds which might be realized upon making such sales your petitioner made an indenture conveying in trust, and with a power to sell, all the interest and claim which your petitioner held and enjoyed of, in and to the titles, labors, and lands, situated in the said town of Brownsville, and which are embraced in the aforementioned agreement.

Your petitioner avers that the said Robert H. Hord was the trustee in the said indenture named and constituted; and the said Robert H. Hord, in his capacity as agent and attorney for the said venders of Point Isabel—which position said Hord occupied as well as attorney for your petitioner—did advise and counsel the said venders of Point Isabel that the interest of your petitioner in the town of Brownsville, under the agreement of December 9, 1848, before referred to, was ample security for the sum of twenty-eight thousand seven hundred and fifty dollars.

Your petitioner avers that the said trust deed drawn and prepared by said Hord, and the said Hord at that time, and before drawing said

trust examined the agreement executed by your petitioner and Stillman and Belden.

Your petitioner thus avers that the said Basse and Hord advised your petitioner (their client) to make said trust deed to secure to the venders of Point Isabel the sum of \$28,750, and advised the said venders to receive the said trust deed (making him, the said attorney, trustee) as of value sufficient to secure said sum of \$28,750, which said property contained in said trust deed is now claimed by the said Robert H. Hord and Elisha Basse adversely to the claim of said grantor of said trust, the beneficiary of the same and their clients as aforesaid, as will appear by the advertisement in the Rio Grande Sentinel and Rio Brazos newspapers, published in Brownsville, and hereto annexed as part.

Your petitioner avers that there was and is pending in the United States district court at Galveston, Texas, a suit entitled *Cavazos et al. vs. Stillman et al.*, in which the title of Stillman, Belden, and Mussina, under their several titles under the agreement of 9th December, 1848, are contested, and adverse title set up.

Your petitioner further says that among other counsel employed for Stillman, Belden, and Mussina were Robert H. Hord and Elisha Basse, or that in the preparation of the defence for Stillman, Belden, and Mussina, the procurement of the testimony to prove and maintain the title of the defendants was entrusted mainly to R. H. Hord; that he has neglected to take at Brownsville and elsewhere the necessary depositions to prove up and maintain the rights of the defence; and especially he omitted to take any depositions to prove the adverse possession of the defendants and their grantors, although he was specially instructed so to do by his associate counsel, honorable Volney E. Howard and Ovid F. Johnson, esqrs.

Your petitioner avers that the witnesses by whom said facts could have been proved were fully known to said Hord, as also the importance of the proof; the same having been plead and relied upon by said defendants to amount to title, if supported by proof.

Your petitioner further avers that, during the progress of the said cause, the said Robert H. Hord was called as a witness for the complainants, and made the following statement on oath:

"Since the institution of this suit I have purchased the entire interest of Stillman and Belden, two of the defendants; I am also interested in favor of the establishment of the old title, which I am now called to prove up."

Your petitioner avers that the said double employment in favor of title, both of the complainants and defendants, is a betrayal of professional trust, and a fraud upon the parties.

Your petitioner avers that the said Basse and Hord have made a collusive agreement or contract with the complainants, Cavazos, by which the subject-matter has been compromised; the object of which agreement was to defraud your petitioner out of all title or property in the subject of said suit, and to obtain a decree to be entered up against the defendants, on an agreement to divide the property, or the proceeds of the same, between the complainants and

the said Basse and Hord and their confederates; that, for the purpose of effecting said fraud, said Basse and Hord have neglected to take the testimony to prepare the cause for a proper defence, and have made or caused to be made agreements which have prejudiced the same, with the obvious intention to defeat the title of the defence set up by Stillman, Belden, and Mussina as proprietors of the town of Brownsville. And as further evidence of such fraudulent and collusive agreement, said Hord, whilst on the stand as a witness, as before stated, called by the complainants, was asked the following question by the counsel of your petitioner:

"Have you or have you not any understanding or agreement with the complainants, or either of them, or their agent or solicitor, in relation to the determination or the settlement of this cause, or of any of the matters involved therein, adverse to any interest or right claimed by Jacob Mussina; are you interested in any such understanding or agreement?" Which question said Hord refused to answer, although required to do so by the court.

Your petitioner avers that the aforesaid William Alling, Samuel A. Belden, and Charles Stillman, further combining and confederating for the purpose of cheating and defrauding your petitioner, and aiding, abetting, assisting, and sustaining the said Robert H. Hord and Elisha Basse in their fraudulent devices, did cause to be filed, on the 26th day of February, 1851, in the chancery suit aforesaid, an amended answer to the answer of said Stillman and Belden; from which the following is an extract:

"The defendants, Stillman and Belden, do not admit, but, on the contrary, expressly deny that the title to any part of said town site of Brownsville is in Jacob Mussina; the defendant, Charles Stillman, owning and claiming three-fourths thereof, and the said Samuel A. Belden one-fourth thereof, with the exception of Miguel Salina's labor, which is owned exclusively by the defendant Stillman."

Your petitioner further avers that all the transactions in connexion with the said property of the town of Brownsville were conducted by Simon Mussina, the agent of your petitioner; and the knowledge of all the fraud practised by the aforesaid Alling, Stillman, Belden, and Basse and Hord and others, against your petitioner, was in the possession of your petitioner's agent as aforesaid.

Your petitioner avers that his aforesaid agent, S. Mussina, was, up to, say February, 1850, editing a newspaper at Brownsville called the "American Flag," and that the position and influence of your petitioner's agent, as aforesaid, was of great value to your petitioner.

Your petitioner further avers that the said Alling, Stillman, Belden, and Basse and Hord, by their machinations and threats, induced your petitioner to recal his agent, under the belief that the life of the said agent was not safe, but in great jeopardy, from the conspiracies, plots, and malicious designs of the said Alling, Stillman, Belden, Basse and Hord, as aforesaid.

Wherefore your petitioner prays that the said William Alling, Charles Stillman, Samuel A. Belden, Elisha Basse, and Robert H. Hord be duly cited to answer this petition; and after all due pro-

ceedings the said William Alling and Samuel A. Belden be condemned to make your petitioner's title to the property acquired by them from Basse and Hord on the 5th day of January, 1851, and referred to in this petition ; and that they be further condemned to account for all the rents and revenues thereof, and in default of their so doing they be condemned, *in solido*, to pay your petitioner the sum of twelve thousand dollars, with interest, from judicial demands, this being the value of said property.

And your petitioner further prays that the said Alling, and Stillman and Belden, and Basse and Hord be condemned, *in solido*, to convey to your petitioner, by good and sufficient title, all the property included in the contract of the 9th December, 1848, and in subsequent purchases under it, all of which is specially referred to in this petition; also all the property acquired by any or all of said parties in fraud of your petitioner's rights, as herein set forth; and in default of their so doing that they be jointly and severally condemned to pay your petitioner the sum of three hundred thousand dollars in the way of damages.

And your petitioner further prays that there be awarded to him all other legal, equitable, and general relief the nature of the case may require, and the costs of suit.

WOLFE & SINGLETON,
Of counsel.

SAMUEL GILMAN,
Deputy clerk.

[SEAL.]

MARCH 26, 1852.

STATE OF LOUISIANA, FOURTH DISTRICT COURT OF NEW ORLEANS.

JACOB MUSSINA
vs.
WM. ALLING *et al.* } No. 4,726.

Mr. ELISHA BASSE: You are hereby summoned to comply with the demand contained in the petition, of which a copy accompanies this citation, or deliver your answer to the same in the office of the clerk of the fourth district court of New Orleans, in the city of New Orleans, in ten days after the service hereof.

Witness the Hon. George Strawbridge, judge of the said court, [L. s.] the 26th day of March, in the year of our Lord 1852.

SAMUEL GILMAN, *Deputy Clerk.*

And afterwards, to-wit: On the eleventh day of January, in the year of our Lord one thousand eight hundred and fifty-five, the court made an order in this cause, which is in the words and of the tenor following, to-wit:

RAFAEL GARCIA CAVAZOS *et al.* }
vs.
CHARLES STILLMAN *et al.* }

On this day the surviving complainants in the above entitled cause,

to-wit : Maria Josefa Cavazos and Estafana Goseascochea de Cortina, by their counsel, suggested the death of Rafael Garcia Cavazos and José Manuel Prieto, and thereupon their motion, filed on the 4th day of January, 1854, for a rule against Jacob Mussina, one of the defendants, came on to be heard on the affidavits and documents filed in support of the said motion ; and the same having been fully considered, it is now ordered by the court that the said Jacob Mussina do, on or before the first day of February, A. D. 1854, show cause to this court why a peremptory attachment should not issue against him for contempt of this court in disobeying the order and injunction of the court contained in the final decree rendered in this cause in the following particulars : First, by persisting in setting up and still claiming a title in himself to a portion of the lands mentioned in the said decree, as to which he is thereby enjoined against the said complainants before the several departments of the government of the United States at the city of Washington, D. C., and particularly before the quartermaster general and Secretary of War, on or about the eighteenth day of August, A. D. 1852, and thereafter, to the great injury of the said Maria Josefa Cavazos ; second, by setting up and asserting such claim of title in a suit instituted by him on or about the 26th day of March, A. D. 1852, in a suit instituted by him in the fourth district court of the city of New Orleans and State of Louisiana, against William Alling, Charles Stillman, Samuel A. Belden, Elisha Basse and Robert H. Hord ; and third by claiming and asserting such title in himself to a portion of the land aforesaid, by his parol declarations and written statements, made by himself or his authorized agent constantly and repeatedly since the said final decree in this cause was rendered. And in case the said Jacob Mussina do not show cause as aforesaid, on or before the day aforesaid, then that peremptory attachment at once issue against him.

And afterwards, to wit, on the fourteenth day of January, a copy of the foregoing order issued from the clerk's office of our said court, and is as follows, to wit:

RAFAEL GARCIA CAVAZOS *et als.*
vs.
 CHARLES STILLMAN *et als.*

On this day the surviving complainants in the above entitled cause, to wit: Maria Josefa Cavazos and Estafana Goseascochea de Cortina, by their counsel, suggested the death of Rafael Garcia Cavazos and José Manuel Prieto, and thereupon their motion, filed on the 4th day of January, 1854, for a rule against Jacob Mussina, one of the defendants came on to be heard on the affidavit and documents filed in support in the said motion; and the same having been fully considered, it is now ordered by the court that the said Jacob Mussina do, on or before the first day of February, A. D. 1854, show cause to this court why a peremptory attachment should not issue against him for a contempt of this court in disobeying the order and injunction of the court contained in the final decree rendered in this cause in the following particulars: 1st, by persisting in setting up and still claiming a title

in himself to a portion of the lands mentioned in the said decree, as to which he is thereby enjoined against the said complainants before the several departments of the government of the United States at the city of Washington, D. C., and particularly before the quartermaster general and Secretary of War, on or about the eighteenth day of August, A. D. 1852, and thereafter, to the great injury of the said Maria Josefa Cavazos ; 2d, by setting up and asserting such claim of title in a suit instituted by him on or about the 26th day of March, A. D. 1852, in a suit instituted by him in the fourth district court of the city of New Orleans, and State of Louisiana, against William Alling, Charles Stillman, Samuel A. Belden, Elisha Basse, and Robert H. Hord ; and 3d, by claiming and asserting such title in himself to a portion of the land aforesaid, by his parol declarations and written statements, made by himself or his authorized agent constantly and repeatedly since the said final decree in this cause was rendered ; and in case the said Jacob Mussina do not show cause as aforesaid, on or before the day aforesaid, then that peremptory attachment at once issue against him.

UNITED STATES OF AMERICA, *District of Texas.*

RAFAEL GARCIA CAVAZOS and others	} No. 41.
<i>vs.</i>	
CHARLES STILLMAN and others.	

I, James Love, clerk of the district court of the United States for the district of Texas, at Galveston, certify that the foregoing is a true copy of an order passed in the above entitled cause on the fourteenth day of January, A. D. 1855.

In testimony whereof I hereunto set my hand, and affix the seal of said court, at the city of Galveston, this 14th day of January, A. D. 1854.

JAMES LOVE, *Clerk.*

And thereupon, and a part of the foregoing document is a return made, under oath, by William Cornelius, which is as follows :

UNITED STATES OF AMERICA, *Eastern District of Louisiana.*

RAFAEL GARCIA CAVAZOS <i>et als.</i>	} Pending in the U. S. district court for the district of Texas.
<i>vs.</i>	
CHARLES STILLMAN <i>et als.</i>	

I, William Cornelius, being duly sworn, depose and say that on the 18th day of January, A. D. 1854, I exhibited to Jacob Mussina, (the party named in the foregoing order,) at the counting house or office of said Jacob Mussina, No. 10 Bank Place, in the city of New Orleans, and State of Louisiana, this paper writing, being a copy of an order made by the district court of the United States for the dis-

strict of Texas in the above entitled cause, and certified under the seal of the said court, and delivered him a true copy of the same.

WILLIAM CORNELIUS.

Sworn to and subscribed before me this 18th day of January, A. D. 1854.

J. W. GURLEY, [SEAL.]

Commissioner of the United States for Eastern Dist. of La.

Afterwards, to wit, on the thirty-first day of January, of the same year, came the defendant, Jacob Mussina, by Daniel D. Atchison, esq., his attorney, and filed a motion; which is as follows, to wit:

UNITED STATES DISTRICT COURT, *District of Texas.*

RAFAEL GARCIA CAVAZOS *et als.*, complainants, }
and
CHARLES STILLMAN *et als.*, defendants. }

To the honorable John C. Watrous, judge of the United States District Court for the District of Texas, at Galveston.

The petition of Jacob Mussina, of the State of Louisiana, would respectfully represent to your honor that, whereas he has been very recently served with a rule or order requiring him to appear and show cause, on the first day of February, A. D. 1854, why an attachment should not issue against him for a contempt of this court, and whereas your petitioner is desirous and anxious to make his full and complete answer to said rule, and finding the time fixed by the court too short for him to make ready and file his said answer, your petitioner would therefore respectfully pray your honor to extend the time for answering the said rule or order until the rule day in March; and petitioner makes this request in order that justice may be done, and not for delay.

JACOB MUSSINA,

By his attorney or solicitor, DAN'L D. ATCHISON.

And afterwards, to wit, on the second day of February, in the same year, the court here made an order in this cause; which is of the words and tenor following, to wit:

MARIA JOSEFA CAVAZOS *et al.* }
vs. }
CHARLES STILLMAN *et als.* }

On this day came on to be heard the motion of counsel for Jacob Mussina, praying the court, for reasons therein set forth, for an extension of time to the said Jacob Mussina, to show cause why the peremptory attachment should not issue against him for a contempt of this court in disobeying the order and injunction of the court contained in the final decree entered in this cause. After argument of counsel heard, and the court being now sufficiently advised, it is

ordered that the time for the said Jacob Mussina to show cause why peremptory attachment should not be issued against him be extended to the 18th day of February instant.

Afterwards, to wit, on the fifteenth day of February, of the same year, came the defendant, by Daniel D. Atchison, esq., his attorney, and filed his motion in this cause ; which is of the words and tenor following, to wit :

DISTRICT COURT OF THE UNITED STATES, *District of Texas, at Galveston.*

Between RAFAEL, GARCIA CAVAZOS and others, }
CHARLES STILLMAN and others, defendants, } In chancery, No. 41.
compl'ts, and }

And now comes Jacob Mussina, by his solicitor, and appearing for the purposes herein set forth only, respectfully submits to this honorable court whether he ought or is bound to appear and answer the rule to show cause why a peremptory attachment should not issue against him, &c. 1st. Because no copy of the motion and exhibits upon which said rule was granted was ever served on him. 2d. Because the said Jacob Mussina was, at the time of the filing of the original bill of complainants, and is now, a citizen of the State of Louisiana, and not within the jurisdiction of this honorable court. 3d. That this court has no power to issue process, to be served upon parties who are and always have been beyond its jurisdiction, and for other causes, &c.; and he refers to the various papers in the cause in support hereof, &c.

JACOB MUSSINA,

By his solicitor, DAN'L D. ATCHISON.

And afterwards, to wit, on the same day and year, came Jacob Mussina, the defendant in this cause, and filed his answer to the rule of complainants ; which is of the words and in the tenor following, that is to say :

ANSWER OF JACOB MUSSINA.—CHANERY 41.

In the District Court of the United States for the District of Texas, at its January term in A. D. 1854.

The answer of Jacob Mussina to a rule against him upon the final decree entered in a suit in chancery, numbered 41, in the district court of the United States for the district of Texas, at Galveston, wherein Rafael Garcia Cavazos *et al.* were complainants, and Charles Stillman *et al.* are defendants, to show cause why he should not be attached for contempt, &c.

This respondent, Jacob Mussina, protesting that he ought not to be called upon to answer said rule, because he has not been served

with the ——— motion, with the exhibits referred to therein upon which the same was granted, and that the said motion, exhibits, and rule are wholly insufficient in law, without waiving any benefit that may or might be taken by exception to the manifest error and imperfections thereof, for answer unto said rule says: That he has never knowingly or intentionally treated with disrespect the laws or any of the tribunals of the United States, and that it has always been his wish and purpose to show all becoming respect to the laws, and to all the tribunals of the United States, and that he never intended to violate or attempt to violate the injunction of this honorable court; and being satisfied that there can be no contempt when none was intended, and not being aware that there has been any disobedience to the injunction, he denies that he has in any way been guilty of any contempt to or disobedience of said injunction since the same was served on him about May, 1852.

This respondent, further answering, says: That he commenced his suit in the 4th district court of New Orleans on the 1st November, 1851, and that William Alling, one of the defendants, was cited on the ——— day of ———, 1851, and that all the defendants except Stillman appeared and made defence, and that upon the trial of that suit he obtained a verdict and judgment, establishing the truth of the allegations of his petition; and that defendant is a citizen of Louisiana, whose domicil is in New Orleans, and that his said suit in New Orleans was instituted long before the decree in this suit, and that all of the defendants except Stillman were cited, as he believes, before the injunction was served on him.

He further says that all the defendants against whom he obtained his judgment have applied to the supreme court of Louisiana, and have cited him to appear in that court to answer to said appeals.

He further says that upon the trial of his said suit in the 4th district court of New Orleans the defendants produced and read the records of this suit and the decree and injunction therein; and pleaded and relied that the decree in this suit was *res judicata*, and that it barred the recovery sought, and that it was solemnly decided that the said decree and injunction did not bar the demands set forth in his said petition. That question is one of the matters which said defendants have asked the supreme court of Louisiana to revise on said appeals.

This respondent is advised that he had a perfect right, notwithstanding said decree, to sue the defendants for their fraud on and conspiracy against him, and for their breaches of the trust and confidence he had reposed in them; and that all this may well be done without contesting the force and effect of said injunction. He is advised that if he had been obliged by the force of that injunction to lose the land in controversy, and to yield it up to the plaintiffs, that such a result could not affect his right to hold the parties who were defendants to his suit liable to him for the conspiracy and the fraud and breaches of trust which had caused him to lose the land. And if Basse and Hord, and Alling and Belden, or any of them, shall elect to purchase from the successful complainants, and procure for

respondent, and tender the title thus acquired in lieu of the damages he is otherwise entitled to recover from them, that this cannot and will not in any way interfere with or prejudice the rights of the successful complainants in this suit.

This respondent further says that the complainants who have taken this rule upon him sold to Basse and Hord, as he believes, their claim upon the town of Brownsville and the land claimed by respondent whilst Basse and Hord were the agents and attorneys of this respondent, and of counsel for him and Belden and Stillman; and that Basse and Hord had, by betraying the trust and confidence reposed in them, and by fraud and artifice, and a confederation with Belden, Stillman, and Alling, and collusion with the complainants and their counsel, Ebenezer Allen and William G. Hale, procured by their fraud the decree in this cause; and that all these facts were in issue and proved on the trial to the satisfaction of the court and jury in the 4th district court of New Orleans.

And he further says that Basse and Hoard did, before the injunction was served on the defendant, procure and place on record a deed from Rafael Garcia Cavazos and Maria Josefa Cavazos for the town of Brownsville; and also, as he is informed, another deed, from Estafana Goseascochea de Cortina and Feliciano G. de Tijerina, the date of which is not before respondent, for the same land, copies of which, duly authenticated, will be presented at the hearing of this rule; and that those deeds were made, as he believes, upon pretended considerations set forth therein, but in fact in completion of contracts made long before the decree in this cause; and that, by the force of those contracts and said deeds, the only complainants in this rule had parted with and released their rights to Basse and Hord before the service of said injunction; and that, although Basse and Hoard may not so appear in the record, they are in fact the actors in this rule.

And respondent further submits that this rule is but the continuation of the fraud on his rights which have been systematically conducted by Basse and Hord and their confederates, against whom he has obtained his judgment; and that Basse and Hord and their confederates, after appealing from the judgment and filing their appeal, and submitting the trial of those matters on their appeals to the supreme court of Louisiana, have no right to abandon that tribunal and go elsewhere for relief under the disguise of Maria Josefa Cavazos and Estafana Goseascochea de Cortina; and that this honorable court should not lend its aid to Basse and Hord and their confederates to prevent the defendant from answering their appeal.

And he further submits, that the supreme court of Louisiana has full and competent power with the whole matter before it, to do what is just and equitable between him and the defendants, and that it has before it not only the whole record of this suit, but all the proof of their frauds and conspiracy. Under these circumstances, he insists that when he, a citizen of Louisiana, has appealed to the courts of his State for redress of injuries and wrongs and frauds, and the defendants have appeared and defended, and have themselves appealed, a circuit court of the United States should not interfere to prohibit

this defendant from making his defence to an appeal which it is the solemn duty of the supreme court of Louisiana to guaranty to him.

He respectfully insists that every court to which a litigant applies, as these appellants have done to the supreme court of Louisiana, is responsible to that court for his conduct; and that to aid these appellants in preventing a defence to their own appeal would be to aid them in committing a contempt on the supreme court of Louisiana, as palpable as it would be for a litigant, after sueing for a thing, to *take* that thing from the defendant.

This respondent, further answering, says: That he is advised that if a person holding even an inferior title incurs obligations as to the land, and afterwards acquires the superior title, he can never afterwards sever the inferior from the superior title, so as to release the one and retain the other. That the unity of a title forbids this, and that hence all equities acquired from the person whilst holding the inferior title may be enforced, and thus carry the superior title also if it has been united in the same hands.

And therefore that although the decree in this cause might conclude this defendant, so far as the two surviving plaintiffs were concerned, still the persons by whose frauds it was procured cannot, after they have purchased this plaintiff's title, protect themselves by the decree against the responsibilities which their frauds may have created.

And if further response to said rule shall be considered necessary in that case, this respondent submits the following as an additional answer:

That he ought not to be attached under said rule, because this honorable court had not or could not have jurisdiction over said suit to render a final decree such as has been entered therein—one of the complainants being a native born citizen of Texas, and divers of the defendants being native born citizens of Mexico, and being such at the time of the filing of the original bill of complaint therein, and the subject-matter of said suit being only properly cognizable in a suit at law. And in support of this petition this respondent refers to the original bill, and to the order entered by consent in said suit making divers of the complainants defendants therein, and also to the motion to dismiss said bill, and to all the papers, and to the record of said suit in this court; and also to the exhibits filed by the respondent herewith in support of this his answer unto said rule.

That none of the persons who were originally complainants in this suit except Estafana G. de Cortina were or have been citizens of Texas appears fully by the record of suit at law (No. 221) in this court, and is by reference part hereof, wherein S. Mussina sued Rafael Garcia Cavazos and Josefa his wife, Estafana Goseacochea de Cortina, and John Treanor, for slander of title, and has not been able to enforce their appearance.

This respondent would further refer to all the papers of law case No. 134 in support of this his answer to said rule, and made part thereof.

That said final decree was obtained by means of a combination, and

a fraudulent collusion between the complainants to said suit and Charles Stillman, Samuel A. Belden, co-defendants to said suit with the respondent, and Elisha Basse, Robert H. Hord, and Ovid F. Johnson and Joseph A. Swett, of their solicitors; and that said combination and fraudulent collusion was entered into between the parties aforementioned with the intent to defraud this respondent out of his entire interest in the subject-matter of said suit; and this respondent reiterates the allegations set forth in the original petition in the suit of this respondent *vs.* William Alling *et als.*, numbered 4,726, and adopts the same, in order to avoid repetition, as a part of this his several matters of defence unto said rule; and he refers to a certified transcript thereof, and of the verdict and judgment rendered thereon, which is herewith filed and marked (A) in support of this his answer. And he also files herewith a certified copy of divers depositions and documents, which formed a part of the evidence used on the trial of said last named suit, (No. 4,726,) which are also herewith filed and marked (B,) and one also referred to and prayed to be taken as part of this his answer. And he also files herewith the transcript of the record of two suits in the district court for the county of Cameron, in the State of Texas, marked (C) and (D,) which are referred to and prayed to be taken as part of his answer. And he also files herewith deposition of H. N. Caldwell, returned to the 4th district court of New Orleans January 3, 1853, marked (E;) letter of R. H. Hord to Volney E. Howard, dated March 29, 1851, marked (F;) petition of Basse and Hord in the district court of Cameron county, against various persons, for the lands of the town of Brownsville marked (G;) which petition respondent believes to be a correct copy of petition filed and suit instituted in said court; and he has sent for a duly attested copy from the clerk of said district court, which will be filed when received. Also copy of letter—Jacob Mussina to Col. James Love, dated January 11, 1850. Copy of letter—W. G. Hale to same, January 14, 1850, marked (H.) Bond—Stillman, Belden, and Mussina, Belden agent for J. Mussina, December 15, 1848, to Bridget Miller, marked (I.) Bond—Stillman, Belden, and Mussina, to Jacob Miller, January 5, 1849, marked (J.) Lease—Stillman, Belden, and Mussina, by their agents Basse and Hord, to James McNabb, November, 1849, marked (K.) Deed—Basse and Hord to C. A. Harper, February 3, 1850, marked (L.) Appearance of Joseph A. Swett for Robert H. Hord, May, 1850, marked (M.) Appearance of R. H. Hord, as solicitor and counsel for Simon Mussina, marked (M.) Letter—Ovid F. Johnson, esq., December 26, 1850, and statement of the origin and title of "Santa Isabel," marked (O.) Deed—Rafael Garcia Cavazos and wife, to Ebenezer Allen and William G. Hale, December 12, 1849, marked (P.) Copy of a letter to John K. Leman, deputy marshal, Brownsville, marked (Q.) Copy of execution and return, marked 223, (R;) all of which are referred to and prayed to be taken as a part of this his answer. And he also craves leave to refer to any of the papers and records remaining in this court, together with such documents and such parol proofs as he may adduce at the hearing hereof, in support of his defence to said rule. This

respondent would further refer to bill —, in chancery suit No. 55, of this honorable court, and pray to make the same part of this his answer.

That this respondent would for further answer say: That some time in the month of September or October last he wrote (through his agent) to Messrs. Alexander and Atchison, of his counsel, at Galveston, to obtain for him copies of documents from the clerk's office, United States district court for the district of Texas, with the object of consulting his counsel in this city as to his defence in the several suits pending in the honorable court, particularly copies of certain documents that had been introduced in evidence in this suit, (ch. 41.) Among other things required was a copy of the will of Maria Francisca Cavazos and the deposition of William O'Docherty, a perfect knowledge of which documents was considered important for the defence of law case No. 154, and draughting or preparation of bill to impeach for fraud the decree rendered in this suit, (ch. 41.)

This respondent was informed by his said counsel, Alexander and Atchison, that they were unable, and particularly that it was extremely difficult to obtain copies of any Spanish documents.

In December last this respondent sent his agent, S. Mussina, to Galveston, to obtain said copies if possible. On the arrival of said agent at Galveston he was informed that the documents referred to, with others belonging to chancery suit No. 41, were not in court, but were in possession or had been taken out of the clerk's office by William G. Hale, esq; that said Simon Mussina remained in the city of Galveston one month; that during that time said William G. Hale, esq., returned to the said city of Galveston, and about the expiration of said month Simon Mussina obtained the desired copies, and returned with them to this city, as he had been specially instructed to do.

That this respondent would for further answer show: That being advised of the want of jurisdiction in this court, both as to parties and as to subject-matter, over the aforementioned suit in chancery, No. 41, and being also advised of the fraud and collusion aforementioned between the individuals hereinbefore specified, and having had occasion to prove the same to the satisfaction of a court and jury, as appears by reference to exhibit A, and the other exhibits on file with this answer, he has instructed his solicitors to draught and file in his behalf an original bill of complaint to impeach the decree in suit No. 41 aforesaid, for such causes as to them may seem right, and particularly on account of the fraud and collusion aforementioned; and that said bill has only not been prepared and filed in behalf of this respondent on account of absence of papers from the records of this court, as before stated, and the want of time on the part of his solicitors since the before referred to copies had been obtained; and in support of this matter of defence he refers to the affidavit of Daniel D. Atchison, one of the solicitors aforesaid, which is herewith filed, marked (S.)

This respondent would in further support of his defence refer to the deposition, "*de bene esse*," of F. Fauntleroy, taken before David C.

Labatt, esq., United States commissioner for this district, which, as this respondent is informed and believes, was this day mailed to James Love in the usual way; which deposition he prays may be taken as part of this his answer.

This respondent in further support of his defence to this rule says: That he is informed by counsel, and verily believes, that the complainants, Cavazos and others, have waived the effect of the decree and injunction by bringing and continuing to prosecute suits at common law against his agent Simon Mussina, and against the vendees of your respondent, for the purpose of recovering the possession and mesne profits of said land, thereby giving your respondent the legal right to set up any title which he might have in the premises; in support of which defence to said rule he refers to law case No. 372, *Cavazos et als. vs Patterson et als.*, also law case No. 373, *Cavazos et als. vs. Hendrick et als.* both in this honorable court, and prays that the same may be taken as a part of this his answer.

This respondent further says: That he is informed and believes that other suits have been instituted in Cameron county, transcripts of which he has sent for, and prays that the same may be received at the hearing of this rule in support of his defence therein.

And this respondent craving leave to refer to each of the several exhibits hereinbefore referred to, and to any of the papers and records remaining in this court, together with such other papers and such parol testimony as may be adduced in his behalf at the hearing hereof, in support of each and of all the matters of defence by him set forth and relied on, submits that by reason of the total insufficiency in law of the matter adduced against him, and of the entire want of jurisdiction both as to parties and subject-matter in this court, in the suit in chancery (No. 41) aforementioned, &c., &c., said suit ought to be dismissed at the cost of the applicant therefor; and not having had time afforded him to prepare such an answer to said rule as he would desire, craves time to submit such further answer as he may prepare at the hearing thereof, and he also prays for general relief.

JACOB MUSSINA.

UNITED STATES OF AMERICA,

City of New Orleans, State of Louisiana, Feb. 10, 1854.

I, David C. Labatt, a commissioner duly appointed and sworn, do hereby certify that Jacob Mussina, who signed the foregoing affidavit, is well and personally known to me; that the same was subscribed in my presence, and that he swears that the facts which are within his knowledge and above set forth are true, and those derived from others he believes to be true.

D. C. LABATT,

U. S. Commissioner E. & S. District of Louisiana.

Exhibit A.

STATE OF LOUISIANA, FOURTH DISTRICT COURT OF NEW ORLEANS.

JACOB MUSSINA	} No. 4,726.
vs.	
WILLIAM ALLING and others.	

*Petition filed November 1, 1851.**To the honorable George Strawbridge, judge of the fourth district court of New Orleans.*

The petition of Jacob Mussina, of the city of New Orleans, and State of Louisiana, sheweth: That, on or about the 9th day of December, A. D. 1848, in Cameron county, in the State of Texas, he entered into a written contract and agreement with Charles Stillman and Samuel A. Belden, both of whom reside in the State of Texas, but are at present within the jurisdiction of this honorable court; the object of which was "to hold jointly all labors of land which either of the parties had or might thereafter purchase within what is termed the exidos of the city of Matamoras, situated on the left bank of the Rio Grande, embracing the town tract of Brownsville, and the land upon which the United States government improvements exist; as also the locations and rights under Texas certificates or land scrip situated within the aforesaid exidos.

"The said purchases and joint interests at the date of the said agreement, consisted of Texas scrip and locations purchased by Charles Stillman from David Snively, amounting to four thousand six hundred and seventy-six acres; three labors purchased by Charles Stillman from Doneteo Zamora Manuel Vela and Agapeta Vela; six labors, purchased jointly by all the parties to said agreement and contract, from Manuel Trevino Canales; two labors purchased by same parties jointly from Francisco Fagossa."

The said parties further stipulate and bind themselves to sell and convey, one to the other, their heirs, administrators, and assigns, so much of all right, title, and interest, by all or either of them then held of said lands or labors of land, or locations of Texas land certificates, or scrip that they or either of them might thereafter purchase within the said exidos, as would make the said parties to the said agreement and contract hold in the following proportions, to wit: Charles Stillman one-half of the entire interest then held, or that might thereafter be acquired by either of the said parties within the said exidos of Matamoras; Samuel A. Belden one-fourth of the entire interest, as aforesaid; and your petitioner one-fourth of the entire interest, as aforesaid.

The said contract further provides that the profits and losses arising shall be shared and divided between the parties according to their respective shares.

The said contract further provides that regular books should be kept, in which all the purchases, sales, transactions, and accounts

appertaining to said contract should be entered, and that these books should be open to the inspection of any and all the parties at their pleasure ; and further, that in case of the death of any or either of the parties to said agreement, that the survivor or survivors shall be constituted the agent or agents of the deceased, all of which will more fully appear by copy of said agreement, hereto annexed as a part of this petition, and marked A.

Your petitioner avers that he entered into said agreement in good faith, and has fully discharged all the obligations and duties that devolved upon him under it ; that after said agreement was entered into the rights of your petitioner under it were by repeated acts, sayings, and doings fully recognized by the said Stillman and the said Belden, and the public at large ; that the said Belden acted as the special agent and attorney in fact of your petitioner, under powers duly and fully granted, in the sale and conveyance of lands mentioned in said agreement, giving full warrantee titles in his own name, as well as in the name of your petitioner, signing your petitioner's name, and binding him thereto ; that large sales were made by said Stillman and said Belden, the latter acting for himself as well as for your petitioner, and your petitioner is equally bound with them to warrant and defend said titles.

Your petitioner further avers that he agreed with the said Stillman and Belden to employ as legal advisers in all matters pertaining to said agreement Elisha Basse and Robert H. Hord, attorneys, counsellors at law, residing in Brownsville, and practicing the profession of law under the name and style of Basse & Hord ; that the said Basse & Hord were employed as attorneys at law and also as agents for your petitioner and said Stillman and Belden ; that they continued to act as attorneys and agents until ——— day of December, 1849 ; that during that time they were confidentially consulted by your petitioner in common with the said Stillman and Belden in all matters relating to said agreement ; that they examined titles, negotiated sales, proclaimed themselves as the agents and attorneys as aforesaid, by advertising in the newspapers of the country, and by appearing in the several courts of the State and United States as such ; that necessarily the most sacred, confidential, and private relations sprung up between your petitioner and said Basse & Hord.

Your petitioner avers that at the date of the original agreement, as aforesaid, there existed in the town of Brownsville the firm and partnership of Belden & Co., which said firm was and is composed of Samuel A. Belden and William Alling, the latter of whom is a resident of the city of New Orleans. Your petitioner avers that the said William Alling was privately and secretly interested with the said Samuel A. Belden in said contract of 9th December, 1848, at the date thereof, or shortly after.

Your petitioner avers that, notwithstanding his clear and undisputed rights and their frequent recognition, the said Charles Stillman, Samuel A. Belden, Elisha Basse, and Robert H. Hord, combining, confederating, and conspiring together for the purpose of cheating and defrauding your petitioner, and thereunto aided, assisted, and abetted

by the said William Alling and the said Belding and Co., did in the month of December, 1849, wickedly and fraudulently combine together and enter into a conspiracy with the view and for the intent and purpose of cheating and defrauding your petitioner out of his just rights under the said contract of the 9th December, 1848. Your petitioner further charges that the said parties did in their said conspiracy slander him, by falsely and maliciously charging him with fraud in the public newspapers of the country; that they slandered his titles to the said property, all of which was wickedly and maliciously done with the view and intent of impairing his standing in the community, and crippling his pecuniary resources, and thereby force him to onerous and ruinous compromises.

Your petitioner avers that said Stillman and Belden, in fraud of the rights of your petitioner, and in violation of their contract, did on or about the 14th day of December, 1849, by a pretended sale, and for the pretended price of fifteen thousand dollars, sell and convey unto the said Basse & Hord all the right, title, and interest of themselves, as well as that of your petitioner, acquired under the contract of the 9th of December aforesaid.

Your petitioner avers that neither in law nor in equity was it competent for the said Stillman and Belden to sell, nor for the said Basse & Hord to accept, the said purchase so as to defeat the rights of your petitioner; that the said sale could only be made for account and for the benefit of your petitioner; that he deems it to his interest to adopt the purchase of the said Basse & Hord from the said Stillman and Belden, and claims to be the beneficiary thereof, and in accepting said purchase your petitioner is and ever has been willing to take upon himself the obligations contracted by the said Basse and Hord, as expressed in the several deeds now of record.

Your petitioner avers that the said Basse & Hord and the said Stillman and Belden have made large sales of said property, and have realized from the proceeds thereof the sum of one hundred and thirty-six thousand dollars, which they have fraudulently appropriated to their own use, and have refused to account for the same, or any part thereof, to your petitioner or his legally constituted representative, in accordance with their agreement heretofore referred to, your petitioner never having received any of the consideration on account of sales made.

Your petitioner avers that the said William Alling has maliciously, wantonly, with intent to defraud your petitioner, aided and abetted the said Basse & Hord in effecting sales under their said purchase; that he has slandered the titles of your petitioner to the said property, and has falsely represented your petitioner as being without interest or claim thereto. That when the said Basse & Hord have been unable to effect sales, the said Alling has guaranteed and warranted their said titles, to the great damage and injury of your petitioner.

Your petitioner avers that, at the time of the transfer from Stillman & Belden to Basse & Hord, the value of the property included in said transfer was at least three hundred thousand dollars. That upon this land is situated the town of Brownsville, upon the Rio

Grande; that the said property had acquired its great value, and was continuing to improve in value up to the date of the said transfer. That, previous to said transfer, titles were freely taken at large prices from your petitioner and said Stillman and Belden. That in consequence of the said fraudulent acts and doings of the said Alling, Stillman, Belden, Basse, and Hord, public confidence in the said title was impaired, and the value of the said property greatly depreciated, and the growth and advancement of the town greatly retarded; all of which was to the great damage of your petitioner.

Your petitioner avers that the said Basse & Hord are totally and wholly irresponsible for the large amount of property which has thus recklessly and fraudulently been thrown into their hands; specially in so much that they claim the absolute and sole ownership thereof themselves.

Your petitioner avers that, with a view to defraud your petitioner of his just rights, the said William Alling and Samuel A. Belden, with a full knowledge of the claims and rights of your petitioner, did, on or about the fifth day of January, one thousand eight hundred and fifty-one, for and in consideration of the price of one dollar, purchase and accept title to a certain piece of property included in the contract of the 9th of December, 1848, and also the above mentioned transfer of the 14th day of December, 1849, the said piece of property described in said deed from Basse & Hord to said Alling & Belden as "a certain tract or parcel of land situated in said town of Brownsville, known and marked in the original map of said town, as drawn by George Lyon, as lot No. ten (10) in block No. fifty-eight, (58,) and the lower half of lot No. nine (9) in said block, and adjoining said lot No. ten; the said parcel of ground fronting and bounded by Levee street, and by lot No. eleven, and by the upper half of lot No. nine," with all and singular the improvements appertaining and appurtenant thereto; the said parcel of ground, &c., now being in the possession and occupancy of the said William Alling, Samuel A. Belden & Co., and their lessees.

Your petitioner avers that, with a view to defraud your petitioner of his just rights, the said Charles Stillman, with a full knowledge of the claims and rights of your petitioner, did, on about the fifth day of January, one thousand eight hundred and fifty-one, for and in consideration of the price of one dollar, purchase and accept title to a certain piece of property included in the contract of the 9th of December, 1848, and also in the above mentioned transfer of the 14th day of December, 1849, the said piece of property described in said deed from Basse & Hord to said Charles Stillman, to wit: "A certain tract or piece of land situate in the town of Brownsville, aforesaid, known and marked upon the original map of said town, as drawn by George Lyon, as lot No. eight (8) in block No. fifty-eight, (58,) and the upper half of lot No. nine, (9,) adjoining said lot No. eight; the said parcel of ground fronting on and bounded by Levee street, and by Twelfth street, and the lower half of lot No. nine, (9,) with all and singular the rights, members, hereditaments, and appurtenances to the same belonging, or in anywise incident;" the said piece of prop-

erty being now in the possession and occupancy of the said Charles Stillman, Charles Stillman & Brother, and his or their lessees.

Your petitioner avers, that your petitioner and said Stillman & Belden did deposit with the said Basse & Hord all the surveys plans, and maps of the different pieces, parcels, and *labors* of land mentioned and contemplated in and under said agreement hereunto annexed; also a plan or map of the town of Brownsville, known as George Lyon's map of said town.

Your petitioner avers, that all the contracts and conveyances, with the various purchases of any portion of the said labors or lots of land made by your petitioner and the said Stillman & Belden, have been made and described by direct reference to the said George Lyon's map of said town of Brownsville.

Your petitioner avers that the said Charles Stillman, Samuel A. Belden, William Alling, Elisha Basse, and Robert H. Hord, have combined, conspired, and confederated together, and to and with each other, secretly, privately, and fraudulently to retain and secrete the said map, and to prevent the same from being recorded in the proper office for that purpose, and fraudulently to retain and secrete from your petitioner other plans, plots, maps, and surveys, relating to the aforesaid lands, placed by your petitioner and said Stillman & Belden, as aforesaid, in the hands of said Basse & Hord, agents and attorneys of your petitioner and the said Stillman & Belden.

Your petitioner avers that he has demanded the said map, known as George Lyon's map of the town of Brownsville, of the said Stillman, Belden, Basse, and Hord; and the said Stillman & Belden disclaim all knowledge and control of the said map, and disclaim having any interest therein, because of the pretended sale hereinbefore referred to, to the said Basse & Hord; and the said Basse & Hord refuse to give any positive and certain information touching and concerning the same, except by declarations to withhold said map from being recorded, because of interfering with their interests as the pretended proprietors (in their own right) of the whole town tract or plat embraced within the limits of said town of Brownsville; and that they, the said Basse & Hord, have employed the services of George Lyon to make a different map of said town, and have placed the same on record in the clerk's office of Cameron county.

Your petitioner avers, that being somewhat in embarrassed circumstances, occasioned by his large expenditures in purchasing and advancing his several interests in and adjacent to the Rio Grande, and having and claiming a certain undivided interest in the lands in and adjacent to the town of Point Isabel, a large portion of the purchase money for the same being unpaid.

Your petitioner avers that he did consult R. H. Hord, as his attorney, as aforesaid, as to the best mode of relieving himself from his said embarrassments. And in pursuance of the advice of his said counsel, R. H. Hord, on or about the 20th day of October, 1849, an arrangement was effected with the vendors and co-proprietors of said Point Isabel land, by which the agent of your petitioner (Simon Musina) was clothed and vested with authority to sell and convey certain

parts and parcels thereof, and as security for the proper disposition of the funds which might be realized upon making such sales, your petitioner made an indenture conveying in trust, and with a power to sell all the interest and claim which your petitioner held and enjoyed, of, in, and to the titles, labors, and lands, situated in the said town of Brownsville, and which are embraced in the aforementioned agreement.

Your petitioner avers that the said Robert H. Hord was the trustee in the said indenture, named and constituted; and the said Robert H. Hord in his capacity as agent and attorney for the said vendors of Point Isabel, which position said Hord occupied as well as attorney for your petitioner, did advise and counsel the said vendors of Point Isabel, that the interest of your petitioner in the town of Brownsville, under the agreement of December 9, 1848, before referred to, was ample security for the sum of twenty-eight thousand seven hundred and fifty dollars.

Your petitioner avers that the said trust deed was drawn and prepared by said Hord, and the said Hord at that time, and before drawing said trust deed, examined the agreement executed by your petitioner and said Stillman and Belden.

Your petitioner thus avers that the said Basse and Hord advised your petitioner (their client) to make the said trust deed, to secure to the vendors of Point Isabel the sum of \$28,750, and advised the said vendors of Point Isabel, also their clients, to receive the said trust deed (making him the said attorney trustee) as of value sufficient to secure said sum of \$28,750, which property contained in said trust deed is now claimed by the said Robert H. Hord and Elisha Basse, adversely to the claims of the grantor of said trust, the beneficiary of the same, and their clients as aforesaid; as will appear by advertisement in the "Rio Grande Sentinel" and "Rio Bravo" newspapers, published in Brownsville, and hereto annexed as part.

And your petitioner avers that there was and is pending in the United States district court at Galveston, Texas, entitled Cavazos et al. *vs.* Stillman et al, in which the title of Stillman, Belden and Mussina, under their several titles under the agreement of the 9th of December, 1848, are contested and adverse titles set up.

Your petitioner further avers that among other counsel employed for Stillman, Belden and Mussina, were Robert H. Hord and Elisha Basse. That in the preparation of the defence for Stillman, Belden and Mussina the procurement of the testimony to prove and maintain the title of the defendants was entrusted mainly to said R. H. Hord. That he has neglected to take at Brownsville and elsewhere the necessary depositions to prove up and maintain the rights of the defence, and especially he omitted to take any depositions to prove the adverse possession of the defendants and their grantors, although he was specially instructed so to do by his associate counsel Hon. Volney E. Howard and Ovid F. Johnson, esq.

Your petitioner avers that the witnesses by whom said facts could have been proven were fully known to said Hord, as also the impor-

tance of the proof, the same having been plead and relied upon by said defendants to amount to title if supported by proof.

Your petitioner further avers that, during the progress of the said cause, the said Robert H. Hord was called as a witness for the complainants and made the following statement on oath :

“Since the institution of this suit I have purchased the entire interest of Stillman & Belden, two of the defendants. I am also interested in the establishment of the old title, whih I am now called upon to prove up.”

Your petitioner avers that said double employment in favor of title of both complainants and defendants is a betrayal of professional trust, and a fraud upon the parties.

Your petitioner avers that the said Basse & Hord have made a collusive agreement or contract with the parties Cavazos, by which the subject matter of the cause has been compromised, the object of which collusive agreement was to defraud your petitioner out of all title or property in the subject of said suit, and to obtain a decree to be entered up against the defendants, on an agreement to divide the property, or the proceeds of the same, between the complainants and said Basse & Hord and their confederates.

That for the purpose of effecting said fraud, said Basse & Hord have neglected to take the testimony, to prepare the cause for a proper defence, and have made, or caused to made, agreements which have prejudiced the same, with the obvious intention to defeat the title of the defence set up by Stillman, Belden and Mussina, as proprietors of the town of Brownsville ; and, as further evidence of such fraudulent and collusive agreement, said Hord, whilst on the stand as a witness, as before stated, called by the complainants, was asked the following question by the counsel of your petitioner.

“Have you or have you not any understanding or agreement with the complainants, or either of them, or their agents or solicitors, in relation to the determination or the settlement, or of any of the matters involved therein, adverse to any interest or right claimed by Jacob Mussina ; are you interested in any such understanding or agreement?”

Which question said Hord refused to answer, though required to do so by the court.

Your petitioner further avers that the aforesaid William Alling, Charles Stillman, and Samuel A. Belden, further combining, conspiring, and confederating for the purpose of cheating and defrauding your petitioner, and aiding, abetting, assisting, and sustaining the said Robert H. Hord and Elisha Basse in their fraudulent devices, did cause to be filed, on the 26th day of February, A. D. 1851, in the chancery suit aforesaid, an annexed answer, as the answer of said Stillman & Belden, from which the following is an extract :

“The defendants, Stillman & Belden, do not admit, but, on the contrary, expressly deny that the title to any part of said town site of Brownsville is in Jacob Mussina. The defendant, Charles Stillman, owning and claiming three-fourths thereof, and the said Samuel A.

Belden one-fourth thereof, with the exception of Miguel Salinas' *labor*, which is owned exclusively by the defendant Stillman."

Your petitioner further avers that all the transactions in connexion with the said property of the town of Brownsville were conducted by Simon Mussina, the agent of your petitioner, and the knowledge of all the fraud practiced by Alling, Stillman, Belden, Basse & Hord and others against your petitioner, was in the possession of *your agent*, as aforesaid.

Your petitioner avers that his aforesaid agent (S. Mussina) was, up to, say February, 1850, editing a newspaper at Brownsville, called the "American Flag," and that the position and influence of your petitioner's agent, as aforesaid, was of great value to your petitioner.

Your petitioner further avers that the said Alling, Belden, Stillman, and Basse & Hord, by their machinations and threats, induced your petitioner to recall his agent, under a belief that the life of the said agent was not safe, but in great jeopardy from the conspiracies, plots, and malicious designs of the said Alling, William, Belden, and Basse & Hord, as aforesaid.

Wherefore your petitioner prays that the said Stillman Alling, Charles Stillman, Samuel A. Belden, Elisha Basse, and Robert H. Hord, be duly cited to answer this petition, and after the proceedings the said William Alling and Samuel Belden be condemned to make your petitioner title to the property acquired by them from Basse and Hord, on the 5th day of January, 1851, and referred to in this petition; and that they be further condemned to account for all the rents and revenues thereof, and in default of their so doing they be condemned, *in solido*, to pay your petitioner the sum of twelve thousand dollars, with interest from judicial demand, this being the value of the said property. And your petitioner further prays that the said Alling, and Stillman, and Belden, and Basse and Hord, be condemned, *in solido*, to convey to your petitioner, by good and sufficient title, all the property included in the contract of the 9th December, 1848, and in subsequent purchases under it, all of which is especially referred to in this petition; also all the property acquired by either or all of the said parties in fraud of your petitioner's rights, as herein set forth, and in default of their so doing that they be jointly and severally condemned to pay your petitioner the sum of three hundred thousand dollars, in the way of damages; and your petitioner further prays that there be awarded to him all other legal, equitable, and general relief the nature of the case may require, and the costs of suit.

WOLFE & SINGLETON, of counsel.

Verdict.

We, the jury, find that the defendants shall convey unto Jacob Mussina, the plaintiff, by good and sufficient title, all the rights of property acquired by Basse and Hord, under the transfer of conveyances of the 14th of December, 1849, and 31st January, 1850, within twenty days from the date hereof; and that Elisha Basse, R. H.

Hord, S. A. Belden, and W. Alling, pay to the plaintiff the sum of twenty-five thousand dollars damages.

We, the jury, further find that S. A. Belden and William Alling convey to J. Mussina the property purchased by them from Basse & Hord on the 5th January, 1851, and, on the said defendants complying with the above, the said plaintiff shall refund the said amounts advanced by defendants for the purchase of the property; and in default of the defendants making the above conveyances within ninety days, we, the jury, find a verdict in favor of the plaintiff, J. Mussina, for the sum of two hundred and fourteen thousand dollars, in lieu of the title to the property.

S. L. FOWLER, *Foreman*.

NEW ORLEANS, *May 21, 1853.*

Judgment.

JACOB MUSSINA	} 4,726, Fourth District Court.
<i>vs.</i>	
WILLIAM ALLING and others.	

And the court being satisfied with the verdict of the jury, does by reason thereof adjudge and decree that the defendants shall convey unto Jacob Mussina, by good and sufficient title, all the rights of property acquired by Basse & Hord under the transfer of conveyances of the 14th December, 1849, and 31st January, 1850, within ninety days from the date hereof, and that Elisha Basse, R. H. Hord, S. A. Belden, and W. Alling pay to the plaintiff twenty-five thousand dollars damages.

And it is further adjudged and decreed that S. A. Belden and W. Alling convey to J. Mussina the property purchased by them from Basse & Hord on the 5th January, 1851, and, on the said defendants complying with the above, the said plaintiff shall refund the said amounts advanced by defendants for the purchase of the property; and in default of the defendants making the above conveyances within ninety days, that the plaintiff, Jacob Mussina, recover from the said defendants the sum of two hundred and fourteen thousand dollars, in lieu of the title to the property, and that defendants pay costs of suit.

Rendered May 21, 1853. Signed November 8, 1853.

M. M. REYNOLDS, *Judge*.

STATE OF LOUISIANA, FOURTH DISTRICT COURT OF NEW ORLEANS.

I, William C. Auld, clerk of the fourth district court of New Orleans, do hereby certify that the above and foregoing nineteen pages contain a true and correct copy of the *petition, verdict, and judgment* in the cause wherein Jacob Mussina is plaintiff, and William Alling and others are defendants, No. 4,726 of the records of this court.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, on this thirteenth day of January, in the year of our Lord one thousand [L. s.] eight hundred and fifty-four, and the seventy-eighth year of the independence of the United States of America.

WILLIAM C. AULD, *Clerk*.

I, Mortimer M. Reynolds, sole judge of the fourth district court of New Orleans, do hereby certify that William C. Auld, whose signature appears to the above certificate, is now, and was at the time of signing the same, clerk of the said court, and that the signature of "William C. Auld, clerk," to the said certificate is in the proper handwriting of him, the said clerk. To his official acts as such full faith and credit are due, and I do further certify his attestation to be in due form of law.

Given under my hand at the city of New Orleans, this 13th day of [L. s.] January, A. D. 1854.

M. M. REYNOLDS, *Judge.*

STATE OF LOUISIANA, FOURTH DISTRICT COURT OF NEW ORLEANS.

I, William C. Auld, clerk of the fourth district court of New Orleans, do hereby certify that Mortimer M. Reynolds, whose signature appears to the above certificate, is now, and was at the time of signing the same, the sole presiding judge of the said fourth district court of New Orleans, duly commissioned and qualified as such, and that the signature "M. M. Reynolds, judge," to the said certificate is in the proper handwriting of him, the said judge, and I do further certify that this a court of record.

In testimony whereof, I have hereunto set my hand and affixed the [L. s.] seal of said court, at the city of New Orleans, this 13th day of January, A. D. 1854.

WILLIAM C. AULD, *Clerk.*

STATE OF LOUISIANA, FOURTH DISTRICT OF NEW ORLEANS.

JACOB MUSSINA
vs.
WILLIAM ALLING and others. } No. 4,726.

Commission, interrogatories, and depositions of A. W. Arrington, E. B. Scarborough, (with documents A and B annexed,) and Edward Dougherty, returned to this court and filed January 3, 1853, as follows, to wit:

THE STATE OF LOUISIANA, FOURTH DISTRICT COURT OF NEW ORLEANS.

To the honorable Stephen Powers, chief justice of the county of Cameron, State of Texas, or Edward J. McLean, justice of the peace, or any judge or justice of the peace for said State of Texas, greeting:

JACOB MUSSINA
vs.
WILLIAM ALLING and others. } No. 4,726.

Know ye that we, reposing confidence in your prudence and fidelity, do, by these presents, give unto you authority diligently to examine all witnesses whatever, as well on the part of the plaintiff as of the defendants, in a certain suit now pending in the fourth dis-

strict court of New Orleans, wherein Jacob Mussina is plaintiff and William Alling and others are defendants.

Therefore we desire you, that, at certain times and places by you to be appointed for that purpose, you cause the said witnesses to come before you; that you then and there examine them apart, upon their respective corporal oaths first taken before you upon the Holy Evangelists, that you reduce their examinations to writing, and cause the witnesses to sign the same; and when you shall so have taken them, that you send the same with this commission, closed up under your seal, to us in our fourth district court, at the city of New Orleans, without delay.

Witness the honorable M. M. Reynolds, judge of our said court, this 21st day of August, in the year of our Lord one thousand eight hundred and fifty-two, and in the seventy-seventh year of the independence of the United States.

K. LOEN, *Dep. clerk.*

[Endorsement on the above commission.]

This commission having been omitted in the return of the depositions taken under it, all objections on that account are waived; and it is now agreed that the same be attached to the depositions, as though it had been regularly returned.

BONFORD & FINNEY,
Attorneys for Basse & Hord and Belden.

APRIL 6, 1843.

JACOB MUSSINA	} Fourth District Court of New Orleans.
vs.	
WILLIAM ALLING, SAMUEL A. BELDEN, ROBERT	
H. HORD, and ELISHA BASSE.	

Interrogatories to be answered by Edward Dougherty, Arthur W. Arrington, Edward B. Scarborough, and Francis W. Latham, witnesses in plaintiff's behalf, and to be read in evidence on the trial of this cause:

1. Where do you reside; what is your age?
2. What office or official position do you hold, if any; how long have you held and performed the duties thereof?
3. Have you or have you not any information relative to any compromise, arrangement, understanding, contract, or agreement, between William Alling, Samuel A. Belden, Charles Stillman, Elisha Basse, Robert H. Hord, or any of them, or any person for them or any of them, and Rafael Garcia Cavazos and wife, or their or either of their attorneys, agent, or representative, or with any person for them or either of them, or with one John Treanor, or with any other person or persons, as to a suit then pending in the United States district court district of Texas, wherein Rafael Garcia Cavazos and wife were complainants, and C. Stillman, S. A. Belden, J. Mussina, and others, were defendants, in which said suit the said Cavazos and wife claimed *adversely* to the said Stillman, Belden, and Mussina, the

lands of the town of Brownsville; if you have any information of any arrangement, compromise, understanding, &c., for a settlement of the conflicting interest, claims of the town of Brownsville, or any portion thereof between the parties aforementioned, state if such contract, compromise, settlement, &c., was reduced to writing; state the time, or about the time it was executed, or the time that you saw it. If attested by subscribing witnesses, state the names of said witnesses; if acknowledged before a judicial officer, state the name of said officer. State the nature and import of any such instrument fully, and state who had said instrument when you last saw it. Do you know who has it now; if you have it, or can obtain it, please file it with your answer?

5. Have you or have you not any information that these defendants, or any of them, have made any statements relative to the pecuniary embarrassments of the said Mussina or the Mussinas? If yea, state the same. What would be the effect of said embarrassments in regard to the Brownsville town lands?

6. Have you or have you not any information that any, and which of these defendants, have stated that it mattered not to them, or either of them, how the suit, Cavazos against Stillman and others, referred to in interrogatory No. 3, might be decided; that they were or would be safe, or words to that substance? State fully all explanations given you by any of said parties relative thereto.

7. Have you or have you not information on the subject of a decree rendered in the case of Rafael Garcia Cavazos and others *vs.* Charles Stillman and others, in the United States district court district of Texas, wherein was involved the title of the lands of the town of Brownsville? If yea, state the same.

8. Have you or have you not any information that these defendants, or any of them, stated that Jacob was or the Mussinas were pecuniarily embarrassed and would be unable to contend against them, or would be compelled to compromise with them, or abandon his or their claim to Brownsville?

9. Have you or have you not any information that a certain decree, involving the title to the land of the town of Brownsville, in the case of Cavazos and others *vs.* Stillman and others, in the United States district court district of Texas, Galveston, was rendered as a consent decree, and that no defence was made in said case, or that said decree was obtained through or by the influence of any of these defendants? If yes, state from whom you received said information. If you received such or any such information from the honorable J. C. Watrous, state whom he named as having consented or induced him to render said decree. State fully all and everything within your knowledge in any manner connected with said decree, having any connexion with any of the defendants in this case.

10. What or about what was the comparative value of Brownsville town lots, say December, 1849, and December, 1850?

11. What or about what population did Brownsville contain in December, 1848?

12. Have you or have you not any information of the pecuniary ability of Basse & Hord; what was their pecuniary or reputed pecu-

niary ability in December, 1849; were they men of means; if so, to what extent?

13. Have you or not any information in relation to the ferries between Brownsville and Matamoras; who are at present collecting the rents and ferriages; who are known as the present possessors of said ferry privilege; *i. e.*, the ferry on the Brownsville or American side of the river?

14. What do you consider to be the value of the lands situated within the town league of Brownsville, occupied by the United States government as a military post, barracks, &c.; state if any change has been made in the enclosure of said post since December, 1850?

15. Do you or do you not know the locality of a certain labor, or tract of land, said to contain (12) twelve $\frac{53}{100}$ acres, claimed by Charles Stillman, as assignee of Miguel Salinas, and by him conveyed to Basse & Hord, and dated January 31, 1850? If yea, state the comparative value per acre of said labor or tract of land, with the tracts of land or labors surrounding or adjacent to it, known as labors, or tracts of land originally granted to Manuel Vela, Agapeta Vela, and Dorotea Zamora.

16. Have you or have you not any information of the value, in January, 1851, of lots Nos. 8, 9, and 10, in block No. 58, as per George Lyon's map of the town of Brownsville? If aye, state the value of each lot at that time, or as near the value thereof as you can.

17. Have you or have you not any information of the value of Texas land certificates, or headright certificates, (unlocated,) say in the fall of the year 1848? If aye, state at what prices they were sold, or could have been sold in Cameron county.

18. Were you or were you not in the town of Brownsville in December, 1849; state what you know about the transfer of the lands of the town of Brownsville, made by Stillman & Belden to Basse & Hord; state the effect of said transaction upon the value of said property?

19. What were the relations existing between E. Basse, R. H. Hord, and Simon Mussina, previous to the transfer of Brownsville land in December, 1848, by Stillman & Belden to Basse & Hord?

20. What were the relations existing between Stillman & Belden and Simon Mussina, previous to transfer of property by Stillman & Belden in December, 1848?

21. What position did Simon Mussina occupy; what were his employments at Brownsville; what is the general opinion as to his knowledge or judgment of land titles?

22. Have you or have you not any information of any threats made by any of these defendants against Simon Mussina? If aye, state the same, and the time they were made.

* * * * *

To Arthur W. Arrington, Edward Dougherty, Francis W. Latham, and Edwin B. Scarborough:

29, (last.) Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this case, or either of them, or that may be material to the subject

of this your examination, on the matters in question in this case? If yea, set forth the same fully and at large in your answer.

WOLFE & SINGLETON,

Attorneys for Plaintiff.

The defendants, Basse and Hord and Belden, saving and reserving all, and all manner of exceptions to the interrogatories and to the answers thereto, waive propounding any cross-interrogatories.

BONFORD & FINNEY,

Attorneys for Basse and Hord and Belden.

OGDEN & HOFFMAN,

For William Alling.

STATE OF LOUISIANA, FOURTH DISTRICT COURT OF NEW ORLEANS.

JACOB MUSSINA

vs.

WILLIAM ALLING and others. }

THE STATE OF TEXAS,

County of Cameron, to wit:

Be it remembered that on this 6th day of December, A. D. 1852, personally appeared before me Stephen Powers, chief justice of the county of Cameron, and State of Texas, by virtue of a commission to me directed in the above entitled cause, A. W. Arrington, a witness on the part of the plaintiff therein, who being by me duly sworn to declare the truth, the whole truth and nothing but the truth, in answer to the interrogatories to him the said Arrington in this behalf propounded, answering says:

To the first interrogatory, the witness says: I reside in Brownsville, Texas. My age is forty-one years.

To the second interrogatory, the witness says: I am judge of the twelfth judicial district of the State of Texas, I was elected to this office by the people of the said district in August, A. D. 1850, and have performed the duties of the same since the fall of that year.

To the third interrogatory, the witness says: About two years ago, more or less, I had a conversation with R. H. Hord, one of the parties named in this interrogatory, respecting the conflicting claims of the town of Brownsville; Hord remarked, I have something to show, when he invited me into a back room of the office of Basse & Hord, and then exhibited a short instrument of writing to me, which I read, and which purported to be a sale or an agreement for a sale of the town tract of Brownsville, or a part of it, I do not remember which; it was signed by John Treanor, as the agent of Rafael Garcia Cavazos and his wife; I merely glanced over the paper sufficiently to see its purport. I did not wish to become familiar with any of the matters relating to this dispute, as it might place me in an unpleasant position. I remarked to Hord in regard to the suit referred to in this interrogatory, that I supposed this suit would never be terminated or finished. Hord replied no, that suit would

proceed as before. Recently I told Mr. Basse that Hord had shown me this paper of which I have spoken; he expressed surprise, and intimated he would not have done so. The paper purported to be a sale, or an agreement of sale, of the Brownsville land or a part of it, to Basse & Hord, by Cavazos and wife, the consideration I do not remember, this is all I know in relation to this interrogatory.

To the fifth interrogatory the witness says: I have heard Basse and Hord allude to the poverty of Jacob Mussina, but I cannot recollect anything definite further in answer to this question.

To the sixth interrogatory the witness says: I know nothing further upon this subject, except what I have stated in answer to interrogatory third.

To the seventh interrogatory the witness says: I know generally that such a suit was pending, and a decree therein rendered, which purports to adjudicate the title to the lands referred to in this interrogatory as between the parties thereto.

To the eighth interrogatory the witness says: I know nothing of the subject of this interrogatory more than I have already stated.

To the ninth interrogatory the witness says: The only information I have upon this subject is what the Hon. J. C. Watrous told me, in a conversation with him upon the subject of the litigated rights respecting the Brownsville town lands. I was telling him of the nature of the evidence elicited before me upon an application of Basse and Hord for a receiver of the *ferry proceeds* as against the late city of Brownsville; Judge Watrous remarked that if such evidence had been adduced before him, the decree in the case referred to would not have been rendered.

To the tenth interrogatory the witness says: I do not know.

To the eleventh interrogatory the witness says: I do not know; I was not here then.

To the twelfth interrogatory the witness says: I know nothing of this matter; I came first to Brownsville in the spring of 1850.

To the thirteenth interrogatory the witness says: All that I know on this subject has been elicited in a judicial capacity, and I decline to say anything upon this subject.

To the fourteenth interrogatory the witness says: I know nothing.

To the fifteenth interrogatory the witness says: I know nothing.

To the sixteenth interrogatory the witness says: I know nothing.

To the seventeenth interrogatory the witness says: I know nothing.

To the eighteenth interrogatory the witness says: I was not in Brownsville in 1849; know nothing of this question.

To the nineteenth interrogatory the witness says: I know nothing.

To the twentieth interrogatory the witness says: I know nothing.

To the twenty-first, twenty-second, and twenty-ninth interrogatories the witness says: I know nothing of the subject matter of these questions, nor nothing further of the subject matter of this suit, not of advantage to either party herein, than I have already stated in my preceding answers to the interrogatories hereing propounded to me.

A. W. ARRINGTON.

In testimony whereof, I have caused the said witness to subscribe his answers to said interrogatories herein, and have hereto set my hand and seal of office the day and the year hereinbefore stated, at my office in Brownsville, in the county of Cameron aforesaid.

STEPHEN POWERS,

Chief Justice, Cameron County, Texas.

JACOB MUSSINA,

vs.

WILLIAM ALLING and others.

} In the fourth district court of New
Orleans, State of Louisiana.

STATE OF TEXAS, *County of Cameron, to wit:*

Be it remembered that on this 25th day of October, 1852, personally appeared before me, Stephen Powers, chief justice of the county of Cameron and State of Texas, by virtue of a commission to me directed in the above entitled cause, Edwin B. Scarborough, a witness on the part of the plaintiff therein, who, being by me first duly sworn to declare the truth, the whole truth, and nothing but the truth, in answer to the interrogations to him, said Scarborough, in this behalf propounded, answering says:

To the first interrogatory the witness says: I reside in Brownsville, Cameron county, Texas; my age is twenty-nine years.

To the second interrogatory the witness says: I hold no special position.

To the third interrogatory the witness says: I know nothing of the subject matter of this interrogatory, except it be from rumor.

To the fifth interrogatory the witness says: I know nothing about the subject matter of this interrogatory.

To the sixth interrogatory the witness says: I never heard any declaration of the defendants personally on the subject.

To the seventh interrogatory the witness says: I have seen an engrossed certified copy of the decree in the suit in this interrogatory mentioned, and know nothing more of it.

To the eighth interrogatory the witness says: I cannot say positively that I have heard the defendants, or any of them, say anything about Mussina's embarrassment, though I have heard the embarrassment of the Mussinas mentioned in connexion with the controversy between the parties to this suit.

To the ninth interrogatory the witness says: I know nothing personally relating to this interrogatory.

To the tenth interrogatory the witness says: I have never had any transactions in town lots, and, consequently, cannot answer this question.

To the eleventh interrogatory the witness says: I should estimate it at about 2,500.

To the twelfth interrogatory the witness says: As to the present means of Basse & Hoard, I feel well assured that they are entirely irreponsible and insolvent. I hold, and have held for a year, their note for eighty-five dollars, payable on demand, given upon a claim

previously due. I have made repeated application to them for payment, and they have uniformly told me they had no money. I knew them when they first came to Brownsville; they were then, to all appearances, destitute of means. I have heard Hord's landlord complain that he had not paid him his rent for office contracted at that time. In December, 1849, they were generally reputed to be insolvent, and unable to pay their debts, having no means beyond that of their practice as lawyers.

To the thirteenth interrogatory the witness says: From May to the latter part of August, this year, Basse & Hord were in the enjoyment and possession of the ferry between Brownsville and Matamoras. Since the latter part of August aforesaid the right has been adjudged to Mr. C. Bloom, who at present enjoys it.

To the fourteenth interrogatory the witness says: I can form no estimate of the value of the lands occupied by the United States government at Brownsville. I know of no change having been made in the enclosures since December, 1850.

To the fifteenth interrogatory the witness says: I know nothing of the subject-matter of this interrogatory.

To the sixteenth interrogatory the witness says: I should say that lots 8 and 9 of the block referred to were worth from \$10,000 to \$15,000, including the improvements, and that lot 10, in this interrogatory referred to, was worth at least \$10,000, (say ten thousand dollars,) including the improvements, which on all three of the lots are chiefly of brick. They have each a front on the levee, and are regarded as the most eligible business locations in the town.

To the seventeenth interrogatory the witness says: I know nothing on the subject of this interrogatory.

To the eighteenth interrogatory the witness says: I was in Brownsville in 1849, in December of that year. I know that Stillman and Belden transferred to Basse & Hord their interest in the Brownsville town lands about this time. Stillman and Belden and Basse & Hord claimed that the interest so transferred was the exclusive title to the lands embraced therein, and the effect produced by such transfer was, that it shook the confidence of the people of the town in the title of the Town Company, and to the lands generally embraced within the town tract, and in consequence there followed from the time of said transfer a great depreciation in the value of town property in Brownsville, though the precise extent I cannot state.

To the nineteenth interrogatory the witness says: Basse & Hord were the attorneys of the Brownsville Town Company—Stillman, Belden, and Mussina. Simon Mussina, the agent of his brother Jacob, kept his office at the office of Basse & Hord. Their relations were intimate. On all business matters he consulted them, and when wanted himself he was to be found at Basse & Hord's. I was the publisher of the American Flag newspaper for Simon Mussina, and know these facts from my business connexion with him.

To the twentieth interrogatory the witness says: Their relations were intimate. Simon Mussina, as the agent for his brother Jacob,

acted with Stillman and Belden in all transactions relating to the Brownsville town lands.

To the twenty-first interrogatory the witness says: Simon Mussina was regarded as a man of the highest respectability. His time was occupied in editing the American Flag newspaper, and in arranging and perfecting the titles to the Brownsville town tract, and attended to some business at Point Isabel in regard to some interest claimed by himself, or brother, or both, there. He is regarded as an excellent judge of Texas and Mexican land titles. He has had a large experience in them previously to coming to this part of the State.

To the twenty-second interrogatory the witness says: I know nothing of this interrogatory, of my own knowledge.

To the twenty-third interrogatory the witness says: I know of the establishment of the American Flag newspaper in Brownsville. It was brought across the river from Matamoras by me in October, 1848, and by Simon Mussina established in Brownsville. Simon Mussina erected the printing office building; he purchased the materials of said printing office. I was the publisher of the said newspaper, and had the management of the establishment; no rent was paid to the proprietor of the same. I had charge of said office from October, 1848, for about twelve months. The receipts and expenditures of the office during that time about balanced each other, being about \$1,700 each.

To the twenty-fourth interrogatory the witness says: I have examined the document referred to. Such an advertisement did appear in the Rio Grande Sentinel, a newspaper published in Brownsville. I was one of the publishers and proprietors of said paper at the time of the publication of said advertisement. I have not the original manuscript. I cannot state positively now who handed the same into the office for publication, but I think it was either Basse or Hord. I do not remember to whom it was charged. Mr. Palmer, my copartner, attended to this part of the business, and collected the bills, so far as they were collected. I do not know whether the bill for this matter has been paid at all. I have examined document B, referred to. My answer touching this document is in all respects the same as touching document A, herein referred to.

To the twenty-ninth interrogatory the witness says: I know nothing further of interest material to the parties herein, except, perhaps, the fact that whilst Basse and Hord were in the receipt of the ferry proceeds, as before stated, I called upon Mr. Basse to pay a small bill which I held against them, and intimated, as they were in the receipt of the ferry proceeds, their circumstances would justify their paying me small amounts at a time until the demand should be cancelled. Mr. Basse replied that the ferry funds were devoted to a special object, and he could not apply them in payment of their debts.

E. B. SCARBOROUGH.

In witness whereof, I have caused the said Edwin B. Scarborough to sign his answers to the said interrogatories, and have hereunto set my hand and seal of office, at Brownsville, in the county and State aforesaid, the day and year first hereinbefore stated.

STEPHEN POWERS,

Chief Justice Cameron county, Texas.

A.—*Notice.*

The public are hereby notified that any and all business connexions heretofore existing between the undersigned and Jacob Mussina, acting through his agent, Simon Mussina, is hereby terminated and dissolved; any and all agreements heretofore entered into with the said Mussina and ourselves for the purchase and sale of property in and about the town of Brownsville are hereby revoked and annulled, in consequence of the failure of the said Mussina to comply in any respect with his contracts, and for the fraud by him practiced upon us.

CHARLES STILLMAN.

SAMUEL A. BELDEN.

BROWNSVILLE, *January* 28, 1850.B.—*Notice.*

All persons are hereby notified not to intrude or trespass upon any of the lands upon which the town of Brownsville is situate, or lying adjacent or contiguous thereto, as the property is owned by us. All persons entering upon or improving any part of said land or lots, in the said town of Brownsville, adverse to our right, will subject themselves to suit therefor, as well for the possession, damages for the trespass, and forfeiture of their improvements.

R. H. HORD.

ELISHA BASSE.

BROWNSVILLE, *February* 5, 1850.

IN THE FOURTH DISTRICT COURT OF NEW ORLEANS, STATE OF LOUISIANA.

JACOB MUSSINA

vs.

WILLIAM ALLING and others. }

THE STATE OF TEXAS,

County of Cameron, to wit:

Be it remembered, that on this thirteenth day of November, A. D. 1850, personally appeared before me, Stephen Powers, chief justice of the county of Cameron and State of Texas, by virtue of a commission to me directed in the above entitled cause, Edward Dougherty, a witness on the part of the plaintiff therein, who, being by me first duly sworn to declare the truth in answer to the interrogatories to him said Dougherty in this behalf propounded, answering, says:

To the first interrogatory the witness says: I live in Reedyville, Hidalgo county, Texas, and my age is thirty-four years.

To the second interrogatory the witness says: I am assessor and collector of taxes for the county from which Hidalgo county has recently been laid off, and have held the office for two years, and am now holding over until my successor is qualified.

To the third interrogatory the witness says: I know that there was such a suit pending as described in this question, but I know nothing more about the subject-matter of this question than from hearsay.

To the fifth interrogatory the witness says : I know nothing of the subject-matter of this question.

To the sixth interrogatory the witness says : I know nothing of the subject-matter of this question.

To the seventh interrogatory the witness says : I have seen the decree in the case referred to.

To the eighth interrogatory the witness says : I have not any information on this subject.

(The answer to the following interrogatory stricken out.)

To the ninth interrogatory the witness says : I can state, in answer to this question, that when the honorable John C. Watrous, judge of the district court, of and for the district of Texas, was here holding a term of his court in this place sometime last winter, I heard him say, in regard to the case in this interrogatory referred to, that the decree in said case was entered by consent of all the parties, except Mussina; that Mr. R. H. Hord, who represented some of the defendants, with Johnson and Swett, was entrusted with getting up the testimony for the defence; that Mr. Mussina managed his case badly, and injured it; that if the testimony relative to the condemnation of the four leagues of ejidos, of the Mexican town of Matamoras, a part of which were the lands in controversy in this suit, which he now understood could have been procured, had been presented to him, he would not have entertained the bill of Cavazos for half an hour; that the only particle of proof relative to the condemnation of the Mexican authorities of the land, which came before him, was in reply to an interrogatory to which it was not responsive, and that he ruled it out for that cause, and so had no testimony on the subject before him; that now, from what he heard here, he strongly suspected there had been collusion between the parties in getting the decree.

To the tenth interrogatory the witness says : In December, 1849, Brownsville town lots were eagerly sought after as subjects of profitable investment; in December, 1850, they had depreciated greatly. Lots not eligibly situated for commerce were mostly abandoned by the claimants, in preference to paying for them; those more eligibly situated did not depreciate so much, but still sensibly fell off from the prices of 1849, and were no longer looked for by speculators, or any other persons, except such as wanted them for actual occupation. In my opinion there have not a dozen eligibly situated lots changed hands since December, 1849.

To the eleventh interrogatory the witness says : I should judge that the immediate town of Brownsville contained from 2,000 to 2,500 inhabitants, and that the town tract contained considerably over 3,000 inhabitants.

To the twelfth interrogatory the witness says : They were generally regarded as men of limited means; when they came to Brownsville they were poor, and in straightened circumstances, judging from their appearance and mode of living. Their paper has been and still is offered at a discount, from its free amount and no purchasers.

To the thirteenth interrogatory the witness says : The American

ferry across the Rio Grande, from Brownsville to the Mexican side, is in the enjoyment of Conrad Bloom, whose right to the same was contested in the county court, and is still now contested in the district court by Basse & Hord, who enjoyed this ferry privilege from April or May to the last of September of this year.

To the fourteenth interrogatory the witness says: I have assessed different portions of those lands to different claimants, who are receiving no rents or benefits from them, at \$50 per acre; but if the land were to be devoted to town purposes, being eligibly situated, a large portion of it would be worth from \$800 to \$3,000 per acre, according to its particular location. I cannot say whether the enclosure has been altered or not.

To the fifteenth interrogatory the witness says: I know the labor well; I consider it of equal or greater value for town or agricultural purposes than the lands immediately surrounding it, for the reason that it occupies a fine position on the bank of a fine lagoon, which renders it valuable for population or agricultural purposes.

To the sixteenth interrogatory the witness says: I regard the lots mentioned in this question as among the most valuable lots for commercial purposes in the town, and should say that the lot and half occupied by Stillman, being lot 8 and half of 9, was worth, in 1851, \$4,500; the lot and half occupied by Belden & Co., being half of lot 9 and lot 10, I should say was worth \$8,000 at the time referred to in the question.

To the seventeenth interrogatory the witness says: I know nothing of the subject-matter of this question.

To the eighteenth interrogatory the witness says: I was in Brownsville at the time referred to; I know that Stillman and Belden transferred, or pretended to transfer, all the land of the Brownsville Town Company, held by Stillman, Belden, and Mussina, to Basse & Hord. That the effect of this transfer was, to destroy the confidence on the part of most of the inhabitants in the town in the title of the company, and property rapidly decreased in value. Basse & Hord were regarded by the community as irresponsible men; people would not take their title, and very few have taken their title up to this time. Improvements ceased in Brownsville from about the time Basse & Hord took the transfer from Stillman and Belden.

To the nineteenth interrogatory the witness says: Up to within a short time of this transfer the relations of E. Basse and R. H. Hord, and Simon Mussina, were of an intimate and apparently confidential character. Basse & Hord acted as the attorneys of Simon Mussina.

To the twentieth interrogatory the witness says: Up to about the time of this transfer the relations of these parties were friendly and apparently intimate; Simon Mussina being known and regarded as the agent of his brother in representing his interests in the town tract of Brownsville.

To the twenty-first interrogatory the witness says: Simon Mussina stood equal to the best men in the community; he was chiefly occupied in dealing in lands and attending to the interest of his brother in the town tract. I know nothing about his judgment in land titles.

To the twenty-second interrogatory the witness says: I cannot state.

To the twenty-ninth interrogatory the witness says: I know of nothing of particular consequence, except, perhaps, what I have heard E. Basse say in regard to J. Mussina's connexion with the town company—that said Mussina had no interest in the town lands of Brownsville, and that the agreement he had with Stillman & Belden was a nullity from its beginning.

EDWARD DOUGHERTY.

In testimony whereof, I have caused the witness to sign his name to the said answers, and do hereto set my hand and seal of [SEAL.] office, at Brownsville, in said county of Cameron, the day and year hereinbefore written and expressed.

STEPHEN POWERS,
Chief Justice of Cameron county, Texas.

Commission and depositions of Ovid F. Johnson and T. W. Slemons, with documents thereto annexed, all returned to this court and filed on the 23d of April, 1852, as follows, viz:

FOURTH DISTRICT COURT OF NEW ORLEANS.

The State of Louisiana to J. L. Winter, Esq., Second Justice of the Peace for the Parish of Orleans, greeting:

JACOB MUSSINA	} No. 4826.
vs.	
WILLIAM ALLING and others.	

Know ye that we, reposing confidence in your prudence and fidelity, do, by these presents, give unto you authority diligently to examine all witnesses whatever, as well on the part of the plaintiff as of the defendants, in a certain suit now pending in the fourth district court of New Orleans, wherein Jacob Mussina is plaintiff and William Alling and others are defendants.

Therefore, we desire you that, at certain times and places by you to be appointed for that purpose, you cause the said witnesses to come before you; that you then and there examine them apart, upon their respective corporal oaths, first taken before you upon the Holy Evangelists; that you reduce their examinations to writing, and cause the witnesses to sign the same; and when you shall so have taken them, that you send the same with this commission, closed up under your seal, to us in our fourth district court, at the city of New Orleans, without delay.

Witness the honorable George Strawbridge, judge of our said court, this 26th day of March, in the year of our Lord one thousand eight hundred and fifty-two, and in the seventy-sixth year of the independence of the United States.

T. GILMORE,
Clerk Fourth District Court.

THE STATE OF LOUISIANA,

Parish of New Orleans, city of New Orleans.

JACOB MUSSINA

vs.

WILLIAM ALLING and others.

} In the fourth district court of New
Orleans, Louisiana.

Deposition of three witnesses taken and subscribed before me, Jacob L. Winter, second justice of the peace for the parish of Orleans, in the State of Louisiana, duly elected, sworn, commissioned, and acting as such on the 27th day of March, A. D. eighteen hundred and fifty-two, at 4 o'clock p. m. of said day, at my office, No. 65 Common street, in the city of New Orleans, in the parish of Orleans, in the State of Louisiana, in pursuance of a commission hereto annexed, and to be read as evidence in a certain cause now pending in the fourth district court of New Orleans, Louisiana, wherein Jacob Mussina is plaintiff, and William Alling and others are defendants.

On the part of the defendants, Israel B. Bigelow, a witness known to me to be of lawful age, being to me at the time and place aforesaid produced, and being by me first duly sworn upon the Holy Evangelists, and according to law, to testify to the truth, the whole truth, and nothing but the truth, in regard to the matters in controversy in the suit aforesaid, did then and there, on his oath aforesaid, depose and say, and answer as follows, to wit:

And on the 29th day of March, 1852, also appeared, at the same place, Ovid F. Johnson, a witness of lawful age, who, after having been by me first duly sworn in accordance with law, deposes and says as follows, to wit:

I know all the parties to this suit, and have been acquainted with them for several years. I am acquainted with the different parties interested in the town of Brownsville, so far as their interests have been disclosed by law suits between said parties concerning that property.

I have known of the interests of the several parties in this property for over three years. The first knowledge I had of the character and interests of the parties who asserted a right to the property on which the town of Brownsville stands, I derived from Robert H. Hord, one of the defendants in this case; this must have been three years ago, and upwards. I resided at that time in Galveston; and a suit having been brought in the district court of the United States holding its session at Galveston for the district of Texas, Mr. Hord applied to me to act as counsel for the defendants in that suit.

The names of all the parties I do not now recollect, but the principal plaintiffs were Cavazos' heirs, Madame Manaton, Mr. Tarnava, and others, against Charles Stillman, Samuel A. Belden, Jacob Mussina, and perhaps some others. Mr. Hord requested myself and my partner, Judge Swett, to become counsel for Messrs. Stillman and Belden, and remarked, at the same time, that Mr. Mussina would soon be on, and would probably desire to employ us also. Mr. Hord seemed to be particularly anxious to be considered as the special

counsel of Madame Manaton, Mr. Tarnava, and Tiserera Prieto. We accordingly filed an appearance in court, and prepared an answer, which was also filed. Mr. Hord visited Galveston several times in relation to this business; I do not remember the particular dates.

Very shortly after Hord employed us in the case, Simon Mussina visited Galveston also, and spoke to myself and partner to take care of the interests of Jacob Mussina in the case. We did so, and represented him in common with Messrs. Stillman and Belden.

Some time subsequent to this, business led me to Brownsville, and while there I was personally engaged by Dr. Belden, who was only authorized to do so for himself and Mr. Stillman, and, with the assent of Simon Mussina, I agreed to represent the interests of all three parties. I deem it proper to state here, in justice to all parties, that Colonel Howard had been engaged as counsel for the defendants on certain terms, which were not very acceptable to all of them, and that my employment in the case was based on the fact that his absence and peculiar engagements elsewhere rendered it impracticable for him to attend to it. I understood Colonel Howard to be the leading counsel in the case up to the time I was employed in it. From that time I continued to manage it myself until I left Galveston, which was, I think, some time in March, 1849, or perhaps 1850. I think it was 1850. I had frequent consultations with the parties and counsel in suits to which I have above referred, and some others pending in the federal court in Galveston, in which the same general interest was involved.

In these consultations, or some of them, Messrs. Basse & Hord, Samuel A. Belden, and Simon Mussina, were present. In these consultations I always considered that I particularly represented Messrs. Stillman and Belden and Mussina. I never knew precisely the extent of the interests represented by Basse & Hord, but they always appeared to be particularly solicitous to guard those of the old Spanish grantees, or their heirs, or some of them. It was the Espiritu Santo grant. They appeared to represent the interest of only a portion of the heirs to that grant—I believe the larger portion. I think they represented the interests of all the branches of the heirs, except those belonging to the Cavazos line. They also represented the interests of Madame Manaton and Mr. Tarnava, to a different grant, covering a tract called the Point Isabel property. I was employed for either Jacob or Simon Mussina, I do not recollect in whose name the suit was brought, to represent them in the title to the Point Isabel property. Mr. Simon Mussina employed me in that case. I had frequent conversations with Simon Mussina, and had some conversation with Jacob Mussina, on these subjects.

In the many conversations had with the parties and their counsel while I remained in Texas, and had the management of this business in my hands, I do not recollect that any complaint was ever made by any of them in regard to the course pursued in the business by Messrs. Basse & Hord. The first knowledge I had of any difficulty having arisen between these parties, was from some advertisements I read in the Brownsville newspapers. The exact date of these advertisements,

or of my reading of the same, I do not now remember ; it must have been a year and a half or two years ago.

Subsequently I have heard from both parties there was such a difficulty. I have received a retaining fee in the case of which I have just spoken, viz: \$50 in the first case from Mr. Hord, and some time afterwards \$500, in addition, from Belden and Stillman. Mr. Belden paid it to me himself, or through the hands of Mr. Hord, I don't remember which. After the occurrence of the difficulty between Belden and Stillman, Basse & Hord, and the Messrs. Mussina, I have held several conversations with all the parties, separately, in regard to it. Something was said between Simon Mussina and myself, and perhaps Jacob Mussina, also, in relation to bringing a suit against Stillman and Belden and Basse & Hord for the Brownsville property. I do not remember any distinct proposition to employ me having been made ; but I do recollect having stated distinctly on one, or perhaps several occasions, that, from my relation to all the parties in that transaction, and from my position in their business, I could have no professional connexion with such suit. I do not remember that Simon Mussina or his brother Jacob ever told me, in express terms, that they, or either of them, had never paid anything on account of the Brownsville property ; but the inference I drew from conversation on that subject was, that nothing had been paid by them. About a year and a half ago, in Washington city, Simon Mussina, R. H. Hord, Samuel A. Belden, and Volney E. Howard and myself, were all in that place, and frequent conversations occurred with one or more of these parties and myself in relation to the importance of effecting a compromise of the existing difficulty. There was a proposition to adjust the difficulty which I have spoken of submitted to me by Col. Howard, to be laid before Messrs. Belden and Hord for their consideration, the exact details of which have escaped my recollection.

I here desire to state, that Col. Howard's anxiety to effect a compromise may have, in some degree, arisen from the fact that he himself claims a part interest in the town property of Brownsville, under a written contract with Belden and Stillman, and that he regarded the prolongation of the contest between these parties as likely to prove prejudicial to the interests of them all ; this he stated to me himself.

Simon Mussina and myself roomed together at that time, and had frequent conversations, both before and after the proposition from Howard was made, in relation to the best method of terminating the dispute between the above named parties.

The proposition by Howard seemed to meet the general acquiescence of Mr. Mussina. Howard did not tell me that he was acting as Mussina's counsel, but there seemed to be a concurrence of interest and feeling in the matter. I submitted the proposition to Mr. Belden first. Mr. Belden told me that he no longer claimed any interest in that property, and it was a question for Mr. Hord to determine. Mr. Hord declined to make any arrangement or compromise on the subject.

Some time during the negotiation of which I have just spoken a

proposition was made by Colonel Howard to me to submit this contest to the arbitrament of General Foote, of Mississippi. Subsequently to this proposition having been made, Mr. Mussina informed me, and so did General Foote, that he had called upon him to converse with him in relation to the matter. Mr. Hord said that, in consequence of the relationship between General Foote and himself, General Foote being his uncle, he could not accede to the proposition constituting him an arbitrator. I understood from both parties that the question was, whether the property on which the town of Brownsville stands, with some adjacent vacant lots, was the property of Basse & Hord, under a purchase from Belden and Stillman, or whether it belonged to Jacob Mussina, in consequence of certain alleged irregular practices on the part of Basse & Hord, or whether the said Jacob Mussina owned one-fourth part, under his original contract with Belden and Stillman.

At the time or shortly after I submitted Colonel Howard's proposition to Mr. Hord, he told me that if Mr. Mussina would guarantee an adequate fee to be paid to Mr. Choate, or some other eminent lawyer whom he named, he would be willing to refer the matter to their adjudication. I think I communicated this fact to Colonel Howard and Mr. Mussina both. I do not distinctly recollect the fact of having made such communication, but it is my impression that I did so, because I should have felt it my duty to do it. I have resided at Brownsville for the last seven months. My occupation is that of a lawyer.

I know that a number of suits have been brought by various individuals, as well as by the town of Brownsville, for certain portions of the town of Brownsville, adverse to the title under which all the parties—Belden and Stillman, Basse & Hord, and Jacob Mussina—claim. It is my impression that Jacob Mussina is named in some or all the suits as a party defendant. These suits involve two-thirds of the valuable property of the town of Brownsville, as I think. I am concerned as assistant counsel in all these cases for the defence, for Basse & Hord, and, as far as their interests go, for Belden and Stillman. There is a lease executed by Basse & Hord to William Alling, of this city, for the ferry right across the Rio Grande, opposite Brownsville. I myself advised that this lease should be executed for the purpose of facilitating the trial of the right to the said ferry, between Messrs. Basse & Hord and the city of Brownsville and the county of Cameron, both of which claimed the same. I did not advise that it should be made to any particular person, except to some one residing out of the State of Texas. The object of this arrangement was to enable the parties to bring the suit in the federal court.

The contracts, titles, and suits affecting this property all stand in the name of Jacob Mussina, but the active management of the business at Brownsville, in court and elsewhere, has been in the hands of Simon Mussina, who claims to act for Jacob Mussina by virtue of a power of attorney from him.

What the respective interests in the property may be between Jacob and Simon Mussina I do not know, and cannot state.

The counsel for plaintiffs reserves all objections to the admissibility

of the foregoing deposition, upon the grounds of its being hearsay, and as relating to the contents of written documents, and declines any cross-examination.

OVID F. JOHNSON.

Sworn to and subscribed before me, on the 29th day of March, 1852.

J. L. WINTER,
Justice of the Peace.

And at the same time and place, also, T. W. Slemons, a witness of lawful age, who, after having been first duly sworn according to law, deposes and says :

I know the parties to this suit. I have known Jacob Mussina since 1842, I think, and Simon Mussina I have been acquainted with since 1848. I saw him before that time, but had no acquaintance with him. I held the office of consul of the United States at Matamoras, Mexico, from 12th September, 1848, till some time in the month of February, 1850. I have never had any transactions in my official capacity with any of the parties in relation to the Brownsville property, except certifying to the signatures to certain acts.

Mr. S. Mussina made a bill before me, which he told me to charge to the Town Company. He gave me a draft for the amount (\$12) on S. A. Belden, which was paid by him, and he remarked at the same time that he would pay no more. I do not know what the bill was for, and was only told to charge it to the Town Company.

I have never heard Mr. Mussina say whether he had or had not paid anything for the lands of the Brownsville Town Company. I think that about the time Simon Mussina left Brownsville, he said to me that they were about to swindle him out of the interest he held in the town of Brownsville. In the same conversation Simon Mussina used language that implied that he was interested with Jacob Mussina in the difficulty that he had with the Town Company. This conversation arose from my question to Simon Mussina, why the name of Jacob Mussina appeared in the newspapers.

Cross-examined:

The testimony in proof of the titles to the property in Point Isabel was taken before me as consul. It was written down by Robert H. Hord. Antonio Longoria was present, representing the Tarnava family. Simon Mussina was present part of the time, if not all of it. The annexed depositions, marked X, are the same alluded to as having been taken before me, and is in the handwriting of Robert H. Hord. I was in the town of Brownsville in the year 1848, and I recognize the newspaper American Flag as the one published in Brownsville on the 6th December, 1848, and recognize the advertisement hereto annexed, and marked M, as having been published in the paper of that date.

I also recognize the advertisement hereto annexed, and marked N, as having been published in the same paper on the 3d of October, 1849.

I recognize the paper hereto annexed, called the "Sentinella del Rio Grande," as a newspaper published at Brownsville on the 20th February, 1850. I also recognize the newspaper Rio Bravo, dated 17th December, 1850, as having been published in Brownsville at that date.

R. H. Hord and Simon Mussina were very intimate and friendly in their intercourse, and very often together. Mr. Hord was the attorney of Rafael Garcia. I was present at a family meeting of these heirs, where Hord acted as their attorney, and Hord also paid their bills for my services at this family meeting. I don't know what the pecuniary responsibility of Basse & Hord was about January, 1850. I would have trusted them for any amount, and did trust with whatever amount they asked which I could afford to lend. I have loaned them money, and had no difficulty in getting it back. Basse & Hord are now considered well off by their acquaintances; their means have been acquired by their land speculations and their practice.

I have heard Mr. Basse say that the Mussinas could not prosecute their suit, and that it was a malicious one. Never heard he or Hord say that the Mussinas would have to abandon it on account of their pecuniary embarrassments.

The signatures to the agreement between Charles Stillman, Samuel A. Belden, and Jacob Mussina, acting through his agent, Simon Mussina, are genuine, and I recognize my signature thereto, as a witness, to be genuine.

In conversations with Jacob Mussina, about August, 1848, I always understood from him that he was the owner of Point Isabel.

Re-examined :

At the time the agreement, to which I was a witness, was made, no money was paid by the parties in my presence. I know of no money ever having been paid by either of the Mussinas on said agreement.

Cross-examination resumed :

I know that \$5,000 was paid by Simon Mussina to Tarnava for the Point Isabel property, or some time in 1849, while present at a family meeting of the heirs of Garcia, I saw papers acknowledging the receipt of that sum from Mussina, and the parties interested acknowledged the same as their acts before me. I mean by the parties the heirs of Garcia.

The above answer is objected to, on the ground of being hearsay and irrelevant.

T. W. SLEMONS.

Sworn to and subscribed before me, this 29th day of March, A. D. 1852.

J. L. WINTER,
Justice of the Peace.

Printed advertisement, marked M, mentioned in above deposition of T. W. Slemons, viz :

Notice.—All persons who have made selections of town lots in the town of Brownsville are hereby notified to come forward in thirty

days and take their titles for the same, or the said property will be considered as abandoned and in market. Terms, warrantee deeds, or title bonds, as the parties may choose. Title bonds one-third cash, the remainder in three equal instalments of six, twelve, and eighteen months, with legal interest from date. Cornelius Peterson, esq., is our legally authorized agent to attend to the matter.

C. STILLMAN,
S. A. BELDEN, } *Proprietors.*
J. MUSSINA,

BROWNSVILLE, *December 6, 1848.*

Printed advertisement, marked N, mentioned in said deposition of T. W. Slemons, viz :

Notice.—Messrs. Basse & Hord are our duly appointed agents for the sale of lots in the town of Brownsville. All persons desirous of purchasing are referred to them. For the proprietors.

SAMUEL A. BELDEN.

BROWNSVILLE, *September 18, 1849.*

Notice.—In pursuance of the above notice, we are now prepared to make sale of lots in the town of Brownsville. Those who have entered upon any of the lots in said town without the sanction of the proprietors will be regarded as not having acquired any privilege thereto, and the same are now offered for sale.

BASSE & HORD, *Agents.*

All of the following notices are taken from a newspaper styled "The Rio Bravo," of date the 17th September, 1851, which newspaper is annexed to and returned with the aforesaid commission and depositions of Ovid F. Johnson and T. W. Slemons, viz :

Aviso.—Por el presente se notifica al publico para que ninguna persona se apodere ó ocupe cualquiera de las tierras dentro de los limites de la ciudad de Brownsville segun las reclamamos sin nuestro *expreso y termigante consentimiento por escrito.*

Las personas que ocupen y majoren cualquiera parte de dichas tierras sin dicho consentimiento *perdiran* sus majoras y cuederan sujetas á un lites por toda renta atrasada.

ELISHA BASSE.
ROBERT H. HORD.

DECEMBER 25, 1850.

Notice.—All persons are hereby notified not to trespass upon or occupy any of the lands within the corporate limits of the city of Brownsville, as claimed by us, without our express written authority. Those persons who improve and occupy any portion of said lands without said authority will forfeit and lose their improvements, and be subject to a suit for all back rents.

E. BASSE.
ROBERT H. HORD.

BROWNSVILLE, *December 25, 1850.*

Notice.—Notice is hereby given by the undersigned to all persons to whom they have sold lots in the town of Brownsville, and who have complied with the conditions of said sale, to present their title bonds to Messrs. Basse & Hord at once, as they are prepared to comply, on their part, with the conditions of said title bonds.

CHARLES STILLMAN.
SAMUEL A. BELDEN.

BROWNSVILLE, *December 4, 1850.*

Notice.—Elisha Basse and Robert H. Hord are prepared to sell lots in the town of Brownsville, and to make deeds forthwith for the same. All persons desiring to purchase are requested to make immediate application.

ELISHA BASSE.
ROBERT H. HORD.

BROWNSVILLE, *December 4, 1850.*

All of the following three notices are taken from a newspaper styled "Sentinella del Rio Grande," of date of the 20th February, 1850, which newspaper is annexed to and returned to this court with the aforesaid commission and depositions of Ovid F. Johnson and of T. W. Slemons, viz :

Aviso.—Por el presente el publico está notificado que todas y cada una de las relaciones de comercio que hasta la fecha han existido entre los abajo firmados y Don Jacobo Mussina, por modio de su agente Simon Mussina, están terminados y disueltas.

Todos y cada uno de los convenios hasta ahora hechos entre nosotros y cerca de Brownsville estan revocados y anulados á consecuencia de la falta de dicho Mussina de cumplir en lo mas minimo sus contratos y por el fraude que ha cometido contre nosotros.

CARLOS STILLMAN.
SAMUEL A. BELDEN.

BROWNSVILLE, *Enero 28 de 1850.*

All person are hereby notified not to intrude or trespass upon any of the lands upon which the town of Brownsville is situate, or lying adjacent or contiguous thereto, as the property is owned by us. All persons entering upon or improving any part of said land, or lots, in the said town of Brownsville, adverse to our right, will subject themselves to suit therefor, as well for the possession, damage for the trespass, and forfeiture of their improvements.

R. H. HORD.
E. BASSE.

BROWNSVILLE, *February 5, 1850.*

Notice.—As intimated to me previously, the fact is at length realized that Messrs. Charles Stillman and Samuel A. Belden have put in print matter reflecting on the character and conduct of my brother, Jacob Mussina, one of the Brownsville Town Company, and myself. As the

integrity of each and every one of the parties connected with the said company is a matter of direct interest to the property-holders of Brownsville, I now call upon and challenge Messrs. Charles Stillman and Samuel A. Belden to meet me before a committee of the citizens of Brownsville, to be selected in open meeting, or in any other manner, appointed by the citizens themselves, and a full, fair, and perfect exhibit and explanation make ; which done, I shall be ready for myself (and I embrace my brother in the same pledge) to abide their verdict. In the meantime I pronounce the imputations alleged by them base, slanderous, and false.

SIMON MUSSINA,

For himself and as agent for Jacob Mussina.

BROWNSVILLE, January 30, 1850.

Depositions of Manuel de la Garza Sosa, Don Juan Longorio y Serna, José Leonardo Trevino, and Sanforth Kedder, mentioned in foregoing testimony of T. W. Slemons, and marked X, as follows, to wit :

CONSULATE OF THE UNITED STATES OF AMERICA, }
City and Port of Matamoras, Mexico. }

Manuel de la Garza Sosa personally appeared before me, the undersigned, who, being sworn according to law, upon oath deposes and says :

That he was born in the town of Guerrero, in the State of Tamaulipas, republic of Mexico ; that he is sixty-six years of age, and that he has resided for the last fifty years in and about the present city of Matamoras ; that he became familiar with the tract of land lying on the Laguna del Madre, now in the county of Cameron, in the State of Texas, and one of the United States of North America ; that upon this land is situated the point called "El Frouton," or Point Isabel and Fort Polk ; that in the year 1823 I knew Don Rafael Garcia, a citizen of the then congregation of Refugio, now city of Matamoras, to be in the possession and occupancy of the aforesaid tract of land of Santa Isabel, containing over seven *sitios* of land ; that he, the aforesaid Don Rafael Garcia, from this date, held, either through himself or his children, and occupied the aforesaid land by cultivating parts of the same, pasturing stock on other parts, and renting out other portions, and receiving the rents therefor, from the aforesaid year of 1823 until the present date ; that the aforesaid lands are now held, possessed and enjoyed by the children of the aforesaid Don Rafael Garcia, viz : Doña Angela Garcia, who first married Don Ramon Lafon, and after his death married Don Constantino Tarnava, who likewise died recently, leaving the said Angela a widow, and Doña Felipe Garcia, who also intermarried with Don Emilio Mananton, who is also dead, leaving the said Doña Felipe a widow, and the mother of the said Doñas Angela and Felipe, Doña Guadalupe Sisneros de Garcia, widow of said Don Rafael Garcia, who has since intermarried with

Don Antonio Ma. de las Casas, and all of which said ladies now reside in the city of Matamoras, and are well known to this deponent.

That this deponent further states that the possession of Don Rafael Garcia was open, notorious, and peaceable to those lands as aforesaid from the said date up to this time ; that in the year eighteen hundred and twenty-nine these lands as aforesaid were finally granted and confirmed by the State of Tamaulipas unto the said Don Rafael Garcia ; and from the aforesaid year of eighteen hundred and twenty-three to the year eighteen hundred and twenty-nine the said Don Rafael Garcia paid rent for the said land of Santa Isabel to the said State of Tamaulipas for the use of the same as public domain ; and further this deponent saith not.

MANUEL DE LA GARZA SOSA.
BME. GREMA, *Public Interpreter.*

CONSULATE OF THE UNITED STATES OF AMERICA,
Matamoras, Texas.

I, Thomas W. Slemons, consul of the United States of America at the port of Matamoras, do hereby certify that Manuel de la Garza Sosa, who subscribes the above deposition under his own proper signature, to me the said consul, was duly sworn by me, with the assistance of the sworn public interpreter, Bmé. Grema, for the courts of this city, and through him questions were propounded to said deponent, and answers were given as above by him, the deponent, in my presence, through the said interpreter, B. Grema, who signed the above deposition, under his own proper signature, as public interpreter. I further certify that the said deponent, Manuel de la Garza Sosa, is a respectable citizen of this city, and that his standing for truth and integrity is unimpeached, and that full faith and credit are due to his statements.

[L. S.] In testimony whereof, I hereunto subscribe my name and
affix the seal of my office, this 25th day of August, 1849.
THOMAS W. SLEMONS.

CONSULATE OF THE UNITED STATES,
City of Matamoras, Mexico.

Personally appeared before me, the undersigned, Don Juan Longoria y Serna, who, being duly sworn according to law, deposes and saith upon oath : That he was born in the town of Camargo, in the State of Tamaulipas, in the year 1788 ; that he has resided in the vicinity of, now the city of Matamoras, formerly congregation of Refugio, for the last forty-odd years ; that his father was the collector of church dues, and thereby he became familiar generally with the property, and the owners of the same, within the jurisdiction of said city of Matamoras.

Since his arrival in said town of Matamoras he has been familiar with the lands of Santa Isabel, situated about thirty-nine miles distant from said city of Matamoras, upon the Laguna del Madre, and now lying within the county of Cameron, in the State of Texas, but for-

merly belonged to and was subject to the said jurisdiction of said city of Matamoras. It was the custom to exact from the owners of every ten head of cattle one-tenth for said church dues; that when he first became acquainted with the said lands of Santa Isabel, they were public domain or government lands; that the point of land on the Laguna Madre called "El Fronton," or Point Isabel, is part of the tract of land called and known as Santa Isabel; that about the year 1828 or 1829 these lands ceased to be public domain, by the State of Tamaulipas adjudicating the same to Don Rafael Garcia.

That the said Rafael Garcia was in the possession of those lands from the year 1821 or 1822 up to the time of the aforesaid adjudication in 1829, as a tenant of the government. That the said Don Rafael Garcia had his ranch situated upon the bank of said Laguna Madre, north of the said point of "El Fronton," or Point Isabel, where he sometimes lived, and always kept large stocks of cattle and horses, from the time he first became a tenant of said lands up to the time of his death, which was about the year 1841 or 1842. That since then these lands have been held and possessed by the widow of Don Rafael Garcia, Doña Gaudalupe Sisneros de Garcia, now the wife of Don Antonio Ma. de los Casas, and his two only children, Doña Angela Garcia de Tarnava and Doña Felipe Garcia de Mananton. That these lands have been held both by the said Rafael Garcia and his said widow and children, since the date of 1828 or 1829, in open, notorious adverse possession against all persons whatever.

That this deponent was the attorney of Don Rafael Garcia, and that Point Isabel was repeatedly rented out by the said Rafael Garcia, and he received and collected rents for the same. And further this deponent saith not.

J. LONGA. Y. SERNA.

BM. GIMA, *Public interpreter.*

CONSULATE OF THE U. S. OF AMERICA, }
Matamoras, Mexico. }

I, Thomas W. Slemons, consul of the United States of America at the port of Matamoras, do hereby certify that J. Longoria Y. Serna, who subscribes the above deposition under his own proper signature, to me, the said consul, well known, was duly sworn by me, with the assistance of the sworn public interpreter, B. Grema, for the courts of this city, and through him questions were propounded to said deponent, and answers were given as above by him, the deponent, in my presence, through the said interpreter, B. Grema, who signed the above deposition under his own proper signature as public interpreter.

I further certify that the said deponent, J. Longoria Y. Serna, is a respectable citizen of this city, and that his standing for truth and integrity is unimpeached, and that full faith and credit are due to his statements.

[L. S.] In testimony whereof, I hereunto subscribe my name and affix the official seal of my office, this 25th day of August, 1849.

THOMAS W. SLEMONS.

CONSULATE OF THE UNITED STATES, }
 City and port of Matamoras, Mexico. }

Personally appeared before me, the undersigned, Leonard Trevino, who, being duly sworn according to law, deposes and says upon oath: That he was born in the city of Mier, in the State of Tamaulipas, in the year seventeen hundred and sixty-nine; that he has resided since the year eighteen hundred and twenty-one in the vicinity of now the city of Matamoras, formerly the congregation of Refugio; that he has known the lands whereon the point, formerly called "El Fronton," now known as Point Isabel, is situated, upon the Laguna del Madre, lying and situate within the county of Cameron, and State of Texas, from the year when he was fourteen years of age.

That, in the year eighteen hundred and twenty-one, Don Rafael Garcia was then in possession and occupancy of those lands; but this deponent was not then apprised by what right he held the same; that a few years thereafter it came to his knowledge that the said Don Rafael Garcia was the owner of those lands by a grant from the government by virtue of a purchase; that from this date last mentioned the said Don Rafael Garcia has held, possessed, and enjoyed those lands, either through himself or his heirs, in open and notorious occupancy up to the present date; that this deponent is unacquainted with the exact limits of this grant; that he has been familiar with the family of the said Don Rafael Garcia since the year 1821 up to the present date; that the said Garcia died some years since and left a widow, Doña Guadalupe Sisneros de Garcia, who has since intermarried with Don Antonio Ma. de Los Casas, and two daughters, viz: Doña Felipe de Garcia, who intermarried with Don Emilio Mananton, who is now dead, and Doña Angela Garcia, who first married with Don Ramon Lafon, and upon said Lafon's death intermarried with Don Constantino Tarnava, who also recently died, and that the said two daughters, Felipe and Angela, were the only children, and with the said widow, Doña Guadalupe, are the sole legal representatives of the said Don Rafael Garcia; that all of the said parties reside in the vicinity of said city of Matamoras, are now in the possession and occupancy of the said lands, and have been since the death of their father and husband, Don Rafael Garcia; and further this deponent saith not.

JOSE LEONARDO TREVINO.

BME. GREMA, *Public Interpreter.*

CONSULATE OF THE UNITED STATES OF AMERICA, }
 Matamoras, Mexico. }

I, Thomas W. Slemons, consul of the United States of America at the port of Matamoras, do hereby certify that José Leonardo Trevino, who subscribes the foregoing deposition under his own proper signature, to me, the said consul, well known, was duly sworn by me, with the assistance of the sworn public interpreter, B. Grema, for the courts of this city, and through him questions were propounded to said deponent, and answers were given as above by him, the deponent, in

my presence, through the said interpreter, B. Grema, who signed the above deposition under his own proper signature as public interpreter. And I further certify that the said deponent, José Leonardo Trevino, is a respectable citizen of the vicinity of this city, and that his standing for truth and integrity is unimpeached, and that full faith and credit are due to his statements.

In testimony whereof, I hereunto subscribe my name and affix the official seal of my office, this 25th August, 1849.

THOMAS W. SLEMONS.

CONSULATE OF THE UNITED STATES, }
Matamoras, Mexico. }

Personally appeared before me, the undersigned, Thomas W. Slemons, consul of the United States for the port of Matamoras and its dependencies, Mexico, Sanforth Kidder, a resident of said city of Matamoras, who being duly sworn, deposes and says : I am a citizen, by birth, of the United States ; born in the State of Connecticut, in the year 1825. I immigrated to the town of Matamoras, as it is now known, but at that time called the mission of Refugio, in the State of Tamaulipas, and republic of Mexico. Upon my entrance into said country I visited the point of land situated upon the *Laguna del Madre*, known then as "El Fronton," but now called Point Isabel, being the same upon which also Fort Polk is situated. This land lies in what is the county of Cameron, in the State of Texas. At the time of my first visit to said Point Isabel, Don Ramon Lafon, the son-in-law of Don Rafael Garcia, was in possession of the same, and the said Lafon remained in possession of the same until his death. These lands were then recognized as the property of the aforesaid Rafael Garcia, and after the death of the said Rafael Garcia and his son-in-law, Don Ramon Lafon, the children of the said Don Rafael Garcia, viz : Doña Angela Garcia, formerly the wife of said Don Ramon Lafon, but now the widow of Don Constantino Tarnava, and Doña Felipe Garcia, now the widow of Don Emile Mananton, and the widow of said Rafael Garcia, Doña Guadalupe Sisneros de Garcia, now the wife of Antonio Ma. de los Casas, entered into possession of the same as the legal representatives of said Rafael Garcia.

That, in the year 1833, this deponent entered into a lease with the said Don Rafael Garcia for a part of the lands at "El Fronton," for the purpose of mercantile business, and erected thereon a warehouse, and built a wharf. That soon thereafter the Mexican *commandante* res guardia (surveyor of port) ordered the same to be pulled down, alleging his reason therefor that the place afforded facilities for the contraband trade. That previous to this deponent taking the said lease, Mr. Frederick Bangs had taken from said Don Rafael Garcia likewise a lease for a piece of land at the same point, and erected a house for the curing of beef and making soap, &c.

This deponent further saith, that from the date of his arrival into the aforesaid state of Tamaulipas up to the present date, he has never known any one to possess or occupy any part of the aforesaid lands adversely to and against the will and permission of the aforesaid Don

Rafael Garcia, or of his said children. And further this deponent saith not.

SANFORTH KIDDER.

CONSULATE OF THE UNITED STATES, }
Matamoras, Mexico. }

I, Thomas W. Slemons, consul of the United States of America at the port of Matamoras, do hereby certify that Sanforth Kidder, who subscribes the above disposition under his own proper signature, to me, the said consul, well known, was duly sworn by me; and questions being propounded to said deponent, answers were given as above by him, the deponent, in my presence. I further certify that the said Sanforth Kidder is a respectable American citizen, residing in this city, and that his character for truth and integrity is unimpeached, and that full faith and credit are due to his statements.

In testimony whereof, I hereunto subscribe my name and affix the seal of my office, this 25th day of August, 1849.

THOMAS W. SLEMONS.

STATE OF LOUISIANA, }
Fourth District Court of New Orleans. }

I, William C. Auld, clerk of the fourth district court of New Orleans, State aforesaid, do hereby certify that the above and foregoing fifty-three pages contain a true and correct copy of the originals on file, and forming part of the record in the cause wherein Jacob Mussina is plaintiff and William Alling and others are defendants, said cause being numbered 4,726 on the records of this court. And I do further certify, the following to be true extracts from the note of evidence taken on the trial of said cause, on the 11th and 17th days of May, A. D. 1853, viz:

"May 11, 1853.—Plaintiff offered depositions taken under commission and on file herein, of A. W. Arrington, E. B. Scarborough, Edward Dougherty, and documents thereto annexed, the answers of Arrington and Dougherty to the ninth interrogatory being stricken out."

"May 17, 1853.—Defendants offer the evidence of Ovid F. Johnson, taken under commission and filed herein on the ———, and also the testimony of T. W. Slemons, and the documents thereto annexed."

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, on this ninth day of January, in the year of our Lord eighteen hundred and fifty-four, and in the seventy-eighth year of the independence of the United States of America.

[L. S.]

WILLIAM C. AULD, *Clerk*.

EXHIBIT C.

THE STATE OF TEXAS, *county of Cameron.*

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT FOR THE COUNTY
OF CAMERON.

To the honorable Milford N. Norton, judge of said court:

The petition of Rafael Garcia Cavazos, Josefa Cavazos, and Estafana Goseascochea, acting by their agent and attorney in fact, John Treanor, would respectfully represent unto your honor that they, in connexion with Feliciana Goseascochea and Manuel Prieto, are owners, by inheritance in line of descent, of four sixths of a certain tract or parcel of land lying and situated in the county of Cameron, and State of Texas, known and assigned by the name of Potrero de Espiritu Santo, bounded by the Rio Grande, the Gulf of Mexico, the Laguna Madre, Arroyo Colorado, and a wood or thicket that extends from said Colorado nearly to the Rio Grande, and containing within these boundaries fifty-nine (59) leagues and eleven and a half ($11\frac{1}{2}$) caballeros; which land has descended to them by regular inheritance, since the year of our Lord seventeen hundred and eighty-one, (1781,) the title to which, together with the claim, they are now in possession of, and prepared to show to this honorable court.

Petitioners would further represent unto your honor, that, at the last term of your honorable court, held in the county of Cameron, a petition was presented from Constantino Tarnava, Angela Lafon, and Ramon Lafon, against petitioners, praying for a partition and survey of said land, all of which parties, except Tarnava, are unacquainted with the English language (which is the language of the petition) and knew not what they were signing.

The petition aforesaid describes the boundaries of said land in commencing from a certain water place called Abrevadero del Sanco, and running to a point or tanquo, and thence due north to Arroyo Colorado, the which said new survey leaves out a large quantity of the lands attached to this tract, as described in the title of your several petitioners' boundary, viz: about fifteen leagues of land.

Petitioners represent, that a few years ago one Rafael Garcia did make a location in fact of said lands, (which parts are the same lands omitted in the petition prayed of your honor,) and that the said Constantino Tarnava, acting as his agent, and in connexion with other persons, have trespassed and intruded, and still do continue to trespass and intrude on the lands, (omitted as aforesaid,) to the great damage of your petitioner, and with an evident intention of fraud.

The premises considered, your petitioner prays that your honor do issue his most gracious writ of injunction, restraining the Constantino Tarnava, and all other persons, from surveying and molesting said land under said petition and order of court, until survey and partition be made according to the original titles of 1781, as aforesaid, and that the said Constantino Tarnava and others, (*et als.*), be cited to appear at the next term of your honorable court, to be holden in

the county of Cameron, at the spring term thereof, A. D. 1849, and that they be decreed to pay all costs and damages in this behalf expended. And as in duty bound your petitioners will ever pray, &c.

RAFAEL GARCIA CAVAZOS,
JOSEFA CAVAZOS,
ESTAFANA GOSEASCOCHEA.

JOHN TREANOR,
Agent for plaintiffs.

THE STATE OF TEXAS, *county of Nueces.*

This day came and personally appeared before me, M. P. Norton, judge of the fourth judicial district in and for said State, John Treanor, agent and attorney in fact for Rafael Garcia Cavazos, Josefa Cavazos, and Estefana Goseascochea, who, upon oath, declares and says, that he verily believes the facts and allegations set forth in the foregoing petition are correct and true.

JOHN TREANOR,
Attorney in fact to petitioners.

Sworn to and subscribed before me this 15th day of November, A. D. 1848.

STATE OF TEXAS, *county of Nueces.*

In Chambers, November 15, A. D. 1848.

To the clerk of the district court for the county of Cameron, greeting:

You are hereby required to issue the writs of injunction and citation prayed for in the foregoing petition, on the petitioners giving a bond, with good and sufficient sureties, in the sum of five thousand dollars, in the terms prescribed by law, to respond costs and damages.

M. P. NORTON,
Judge District Court, Fourth Judicial District.

Filed November 22, 1848.

STATE OF TEXAS, }
County of Cameron. }

I hereby certify that the above and foregoing is a true correct copy of the original on file at my office.

Witness my hand and seal of office, in Brownsville, county and [SEAL.] State aforesaid, the 8th day of December, A. D. 1851.

W. W. NELSON,
Clerk District Court of Cameron county.
By JOHN H. ALLEN, *Deputy.*

STATE OF TEXAS. }
County of Cameron. }

Know all men by these presents that I, John Treanor, agent and attorney in fact, as principal, and Jose Maria Cortina and Miguel Garcia Cavazos, as sureties, are held and firmly bound unto Constan-

tino Tarnava et al., in the just and full sum of five thousand dollars, well and truly to be paid, we and each of us bind ourselves, our and each of our heirs, firmly by these presents, sealed with our seals, and dated this 23d day of November, in the year of our Lord one thousand eight hundred and forty-seven.

JOHN TREANOR, [SEAL.]

Agent and Attorney in Fact.

M. GARCIA CAVAZOS. [SEAL.]

JOSÉ MARIA CORTINA. [SEAL.]

The condition of the above obligation is such, that whereas, at the last district court, Constantino Tarnava, *et al.*, petitioned the honorable the district court in and for the county of Cameron for a partition of the following lands to wit: Commencing at a plan on the Rio Grande called the Abrevidaro, bounded by and fronts upon the Rio Grande from said beginning to a tongue or declivity approximate to the said Rio Grande, being the second corner called for in grant original; and from thence by a line drawn northward to a point in the laguna; and from there to the mouth of the Arroyo Colorado; thence up said stream, and thence back to the beginning corner on the said Rio Grande; and the said Constantino Tarnava, *et al.*, having obtained said prayer; and the said John Treanor, agent and attorney in fact as aforesaid, having petitioned the Hon. M. P. Norton for a writ of injunction to stay waste upon said lands; and M. P. Norton, judge of the district court of the fourth judicial district, having awarded said writ of injunction upon the condition that the said John Treanor, *et als.*, will execute their bond for five thousand dollars to respond for costs and damages, now these are, therefore, to say, if the above bounded John Treanor, agent and attorney in fact, as aforesaid, *et als.*, shall well and truly prosecute his said injunction to effect, then this obligation to be null and void; but otherwise, if the said John Treanor *et al.* fail herein, then in that case they will pay or cause to be paid unto the said Constantino Tarnava, *et al.*, all and singular that which may be adjudged against them for the wrongful suing out said writ of injunction.

Given under our hand and seal, this 23d day of November, one thousand eight hundred and forty-seven.

JOHN TREANOR. [SEAL.]

Agent and Attorney in fact.

M. GARCIA CAVAZOS. [SEAL.]

JOSÉ MACIA CORTINA. [SEAL.]

Filed November 23, 1848.

DARIUS BACON, D. C. C. C.

STATE OF TEXAS }
County of Cameron. }

To the sheriff of said county, greeting:

Whereas, Rafael Garcia Cavazos, Josefa Cavazos, and Estafana Goseascochea, acting by their agent and attorney in fact, John Treanor, in

connexion with Feliciano Goseascochea and Manuel Prieto, have prayed for and obtained from the Hon. M. P. Norton, judge of the fourth judicial district, in the State of Texas, a writ of injunction, enjoining and *restraining* Constantino Tarnava, Angela Lafon, and Ramon Lafon, *et als.*, from surveying and molesting the lands named and described in this petition hereto annexed, viz : a certain tract or parcel of land lying and situate in the county of Cameron, and State of Texas, known and designated by the name of Potrero del Espiritu Santo, bounded by the Rio Grande, the Gulf of Mexico, the Laguna Madre, the Arroyo Colorado, and the wood or thicket that extends from said Colorado nearly to the Rio Grande, and containing within those boundaries fifty-nine (59) leagues and eleven and one-half cabelleros, ($11\frac{1}{2}$), until the further order of the court in the premises ; and the said Rafael Garcia Cavazos, Josefa Cavazos, Estafana Goseascochea, and Manuel Prieto having given bond and security according to the order of the Hon. M. P. Norton in the premises as aforesaid.

Now, therefore, this is to command you that you enjoin and restrain the said Constantino Tarnava, Angela Lafon, and Ramon Lafon, *et als.*, from surveying and molesting said lands described as aforesaid, as well as to summon said Constantino Tarnava, Angela Lafon, and Ramon Lafon to be and appear before the honorable district court in and for the county of Cameron, the State of Texas, at the next term of the said court, to be holden at the court-house in Santa Rita, on the ninth Monday after the first Monday in February, A. D. 1849, to answer the petition as aforesaid.

Herein fail not under the penalty of the law, and of this make due return.

Witness, the honorable M. P. Norton, judge of the fourth judicial district.

Given under my hand and seal, this the 24th day of November A. [L. s.] D. 1848.

DARIUS BACON,

Clerk district court Cameron county.

Received 2d December, 1848 ; served on the 4th December, 1848, by leaving a copy of the original with the defendant, Constantino Tarnava.

M. M. STEVENS,

Sheriff Cameron county.

THE STATE OF TEXAS, *County of Cameron :*

I hereby certify that the foregoing and above is a true and correct copy of the original on file in my office.

[L. s.] Witness my hand and seal of office, at Brownsville, county and State aforesaid, this 8th December, A. D. 1851.

W. W. NELSON,

Clerk D. C. C. C.

By JNO. H. ALLEN, *Deputy.*

RAFAEL GARCIA CAVAZOS *et als.*,
 vs.
 CONSTANTINE TARNAVA *et als.*

ROBERT H. HORD,
Guardian ad litem of Ramon Lafon.

R. H. HORD.
BASSE & HORD,
Attorneys.

DARIUS BACON,
Clerk District Court, C. C.

[L. S.] Witness my hand and seal of office, at office in Brownsville,
county and State aforesaid, this 8th December, A. D. 1851.

W. W. NELSON,
Clerk D. C. C. C.

RAFAEL GARCIA CAVAZOS *et al.*
vs.
CONSTANTINE TARNAVA *et al.*

In the district court in and for the
county of Cameron, State of Texas.

And now comes Angela Garcia de Tarnava, in person, one of the defendants in the above entitled cause, and, answering to the petition of said cause, so far as she is advised is material, sayeth : That she denies all and singular the allegations in said plaintiffs' petition contained, except so much as is hereinafter admitted. And this respondent further says, that she is the relict of Ramon Lafon, deceased, and that she and her son Ramon Lafon, a minor, are the only heirs and legal representatives of her said deceased husband, Ramon Lafon ;

that as to the heirs and legal representatives of said Ramon Lafon, deceased, this respondent says that she, with her son, Ramon Lafon, are tenants in common with Rafael Garcia Cavazos, Josefa Cavazos, his wife, Estafana Goseascochea de Cortina, complainant in the above entitled cause as aforesaid, with also Manuel Prieto and Feliciana Goseascochea de Tijerina, of a certain tract of land lying in the county of Cameron, in the State of Texas, known as El Potrero del Espiritu Santo, and which said tract of land has been more particularly described in the petition of this respondent, and her late husband Constantine Tarnava, now deceased, and her son, the said Ramon Lafon, preferred at the fall term of the aforesaid district court for the year A. D. 1848, against Rafael Garcia Cavazos, Josefa Cavazos, his wife, Manuel Prieto, Feliciana Goseascochea de Tijerina, widow, and Estafana Goseascochea de Cortina.

The aforesaid tract of land is accurately described in the said petition, according to the description and boundaries of said tract, as contained and set forth in the original testimonio or grant made by the Spanish crown in the year seventeen hundred and eighty-one, the same title referred to in the original petition, to which grant leave is craved to refer as a part of this answer.

This respondent, further answering, says that since the filing of the original petition for a survey and partition of the said tract of land, as before referred to, and since the decree of this court ordering a survey and partition of the same, and since the granting of the injunction issuing from his honor M. P. Norton, restraining said survey and partition, the said Constantine Tarnava, her then husband, has since departed this life, and all interest represented by him in said suit is now vested in this respondent and her infant son Ramon Lafon aforesaid.

The respondent, further answering, denies that the said Constantine Tarnava, her late husband, or any one under him, or claiming through or by virtue of Rafael Garcia, have trespassed or intruded upon the aforesaid land, as described and set forth in the original grant as aforesaid, or in the original petition filed for a survey and partition, was filed with their approbation and sanction of this respondent, and fully understood by her, and she repeats her prayer that the objects therein set forth be fully consummated.

This respondent further says that she has no other means or remedy for obtaining the quiet and peaceable enjoyment of her portion of the aforesaid land than that prayed for in her said original petition. And she therefore prays that the said injunction be dissolved, and that the proceedings under the original application for the division and survey of said land be permitted to proceed in due course of law.

The affidavits of Manuel Prieto and Feliciana Goseascochea de Tijerina are hereunto attached, and prayed to be taken as part of this answer.

ANGELA GARCIA DE TARNAVA.
BASSE & HORD, Attorneys.

Sworn to and subscribed before me, this tenth day of the month of October, 1849.

DARIUS BACON,
Clerk D. C. C. C.

Filed 11th October, 1849, in open court.

THE STATE OF TEXAS, *county of Cameron.*

I hereby certify that the foregoing is a true and correct copy of the original on file in my office.

Witness my hand and seal of office, at office in Brownsville, county [L. s.] and State aforesaid, this 8th day of December, A. D. 1851.

W. W. WILSON, *Clerk D. C. C. C.*

By JOHN H. ALLEN, *Deputy.*

EXHIBIT D.

To the Hon. Milford P. Norton, judge of the fourth judicial district for the State of Texas, holding court in and for the county of Cameron:

The petition of Angela Garcia de Tarnava, (wife of Constantino Tarnava,) and of Ramon Lafon, minor son of the said Angela by a former marriage with Ramon Lafon, deceased, preferred by Constantino Tarnava, who is the husband and legal representative of the said Angela, and is the natural guardian and next friend of the said minor, Ramon Lafon, herein represents his said wife and step son, with the permission of the court, and *authorizes* and assists them in this suit, are residents of the city of Matamoras, in the republic of Mexico, respectfully represents that the said Angela and the said Ramon Lafon are the legal owners and proprietors of an undivided interest in and to a certain tract or parcel of land lying within the limits of Cameron county aforesaid, known as the Potrero of the Espiritu Santo, the commencing corner of which said land calls to be at the place on the river Rio Bravo del Norte or Rio Grande, called the cattle watering place, [abrevadero.] This land is bounded by and fronts upon the said river Rio Grande, from said beginning corner to a tanquo or declivity approximate to the said Rio Grande, being the second corner called for in the original grant of this aforesaid land from the Crown of Spain to Don José Salvador de la Garza, and from thence bounded by a line drawn northwardly to a point on the laguna, and from thence with said lake or laguna to the mouth of the Arroyo Colorado, thence up said stream, and thence back to the beginning corner on the Rio Grande; the metes and bounds of which survey or tract of land will more specifically appear by reference to the grant from the Crown of Spain to the said Don Salvador de la Garza, and embracing fifty-nine sitios and eleven cavaderos of land.

Your petitioner further represents, that the said Salvador de la Garza died many years ago, leaving three daughters; that one of

these daughters, Margarito, intermarried with Pedro Prieto, and died, leaving two sons, Antonio and Manuel; that this Manuel Prieto was entitled to one-sixth portion of the aforesaid grant; and being so entitled and seized of a part of the said tract of land, sold the same for a valuable consideration to Ramon Lafon, as evidence of which the deed of the said Antonio Prieto is produced and offered; that the said Angela, late Angela Lafon, and the said Ramon Lafon, are the legal heirs and representatives of the said Ramon Lafon, deceased. That your petitioner is informed that Josefa Cavazos and Rafael Garcia Cavazos, and Manuel Prieto, Feliciano Goseascochea de Tijerina, Estafana Goseascochea de Cortina, are the other remaining heirs and representatives of Salvador de la Garza, whom he prays may be made parties defendant to this suit; that the aforesaid parties, as well as your petitioner, have long held their lands in common without being able to effect a severance or partition of the same, although the said parties have been often hereto requested, but so to do have wholly failed and refused. The said Josefa and Rafael Garcia Cavazos, and Feliciano Goseascochea de Tijerina, are residents of the city of Matamoras, in the republic of Mexico; that the aforesaid Manuel Prieto spends a portion of his time in the aforesaid county of Cameron, and the remainder in the aforesaid city of Matamoras; and that the aforesaid Estafana Goseascochea de Cortina is a resident of the aforesaid county of Cameron.

Your petitioner further prays the honorable court that a survey be decreed by your honor, as well to ascertain the external limits of the said survey, as to decree a partition of the same, and assignment to petitioner of his specific lands, for which he prays that commissioners and a surveyor be appointed, and that all notices be ordered to issue upon the hearing of this petition deemed requisite and proper by this court.

Your petitioner further prays that writs of citation issue, summoning the said parties defendant to be and appear at the next district court to be holden at the court-house in Santa Rosa, on the ninth Monday after the first Monday in August, 1848, then and there to answer to this petition; and your petitioner prays for such other and general relief as he may in law or in equity be entitled.

BASSE & HORD,
For Petitioner.

Filed October 2, 1848.

THE STATE OF TEXAS, *county of Cameron.*

I hereby certify that the foregoing and above, is a true and correct copy of the original on file in my office.

Witness my hand and seal of office, at office in Brownsville, county and State aforesaid, this 8th day of December, A. D. 1851.
[SEAL.]

W. W. NELSON,
Clerk D. C. C. C.

By JNO. H. ALLEN,
Deputy.

C. TARNAVA
vs.
 RAFAEL GARCIA CAVAZOS *et al.* } In the district court, October term,
 A. D. 1848.

In this case come the defendants, Feliciana Goseascochea and Estafana Gosoascochea, by their attorneys, into court, and, for answer, say, that they admit the facts contained in plaintiff's petition, and join with the plaintiff in the prayer that a division of the property be made, as prayed for in the petition.

BASSE & HORD,
Attorneys for defendants.

Filed October 13, 1848, in open court.

THE STATE OF TEXAS, *county of Cameron.*

I hereby certify that the foregoing is a true and correct copy of the original on file in my office.

Witness my hand and seal of office, at office in Brownsville, county
 [SEAL.] and State aforesaid, this 8th day of December, A. D. 1851.

W. W. NELSON,
Clerk D. C. C. C.
 By JNO. H. ALLEN,
Deputy.

C. TARNAVA
vs.
 JOSEFA and RAFAEL G. CAVAZOS *et als.* } In district court, Cameron
 county, Oct. term, 1848.

In this case come the said defendants, Rafael G. Cavazos and Josefa, his wife, into court, in person, and joining in with the prayer of the petitioners, pray that the said division be granted.

RAFAEL GARCIA CAVAZOS,
 JOSEFA CAVAZOS.

STATE OF TEXAS, *county of Cameron.*

I hereby certify that the above is a true and correct copy of the original on file in my office.

Witness my hand and seal of office, at office in Brownsville, county
 [SEAL.] and State aforesaid, this 8th day of December, A. D. 1851.

W. W. NELSON,
Clerk D. C. C. C.
 By JNO. H. ALLEN,
Deputy.

C. TARNAVA and others
vs.
 R. G. CAVAZOS and others. } District court for the fourth district,
 county of Cameron.
 R. G. CAVAZOS and others
vs.
 C. TARNAVA and others. } District court for the fourth district,
 county of Cameron.

The undersigned, on the part of their respective clients, agree that all proceedings in the above entitled causes shall be suspended until

twenty days after notice of the intention of continuing the same shall have been given in writing to the attorney of the opposing parties, and this agreement shall not operate to the prejudice of either of the said parties.

W. G. HALE,

Attorney for R. G. Cavazos and wife, and Estafana Goseascochea.

R. H. HORD,

Attorney for Angela Garcia de Tarnava, guardian ad litem, for Ramon Lafon, attorneys for Manuel Prieto and Feliciano Goseascochea de Tijerina.

THE STATE OF TEXAS, *county of Cameron.*

I hereby certify that the foregoing and above is a true and correct copy of the original on file in my office.

Witness my hand and seal of office, at office in Brownsville, county
[SEAL.] and State aforesaid, this 8th day of December, A. D. 1851.

W. W. NELSON,

Clerk district court Cameron county.

By JNO H. ALLEN,

Deputy.

EXHIBIT E.

STATE OF LOUISIANA,

Fourth district court of New Orleans.

JACOB MUSSINA

vs.

WILLIAM ALLING and others.

} No. 4,726.

Commission, interrogatories, and deposition of Henry N. Caldwell, returned to this court on January 3, 1853, and filed same day, viz:

FOURTH DISTRICT COURT OF NEW ORLEANS, }
The State of Louisiana.

To the Hon. Stephen Powers, chief justice of the county of Cameron, State of Texas, or to Edward J. McLane, justice of the peace, or any judge or justice of the peace for said State of Texas, greeting:

JACOB MUSSINA

vs.

WILLIAM ALLING and others.

} No. 4,726.

Know ye that we, reposing confidence in your prudence and fidelity, do, by these presents, give unto you authority diligently to examine all witnesses whatever, as well on the part of the plaintiff as of the defendant, in a certain suit now pending in the fourth district court of New Orleans, wherein Jacob Mussina is plaintiff, and William Alling and others are defendants.

Therefore we desire you that, at certain times and places by you to be appointed for that purpose, you cause the said witnesses to

come before you ; that you then and there examine them apart upon their respective corporal oaths, first taken by you upon the Holy Evangelists ; that you reduce their examinations to writing, and cause the witnesses to sign the same ; and when you shall so have taken them, that you send the same, with this commission, closed up, under your seal, to us, in our fourth district court, at the city of New Orleans, without delay.

Witness the honorable M. M. Reynolds, judge of our said court, this twenty-first day of August, in the year of our Lord one thousand eight hundred and fifty-two, and in the seventy-seventh year of the independence of the United States.

K. LOEN, *Deputy Clerk.*

JACOB MUSSINA	} Fourth district court, New Orleans.
<i>vs.</i>	
WILLIAM ALLING, SAMUEL A. BELDEN, CHARLES STILLMAN, ELISHA BASSE, ROBERT H. HORD.	

Interrogatories to be answered by Henry L. Caldwell, a witness in plaintiff's behalf, and to be read in evidence in the trial of this cause.

1. Where do you reside ?
2. What is your age ?
3. Have you or have you not at any time authorized a negotiation with Simon and Jacob Mussina, or either of them, for the purpose of obtaining by purchase or otherwise their or either of their right, title, and interest, or any right, title, and interest which they represented in a certain wharf privilege in the town of Point Isabel ? If yea, state the time of any negotiation or correspondence had by you on that subject.
4. State any and all negotiations and conversations had by you with Elisha Basse and Robert H. Hord, or either of them, or with any persons for either of them, relative to the purchase or obtaining of any lot or lots, wharf privileges, or other rights, in the town of Point Isabel, Cameron county, Texas. State fully any representations made to you by the said Basse & Hord in reference to the claim or title of Simon Mussina or the Mussinas to the lands of the town of Point Isabel. State also all statements made to you, or of which you have information, by Charles Stillman or Samuel A. Belden, relative to the title of said Point Isabel.
5. Have or have not Basse & Hord, or has either of them, offered to sell you, or obtain for you through Rafael Garcia Cavazos and wife, or any other person, a title to the wharf privilege referred to in the foregoing interrogatory, or title to any other privilege or lot in said town of Point Isabel ? If yea, state the time, and one and every conversation or negotiation had by you with them on the subject ; state if Basse & Hord, or either of them, have ever stated to you that this title of Mussina, or the title which Mussina represented in and to the town of Point Isabel, was not a good title. Has or has not Robert

H. Hord or Elisha Basse informed you that the title of Cavazos to Point Isabel was or was not legal and valid? Have or have not Charles Stillman and Samuel A. Belden, or either of them, endeavored to induce you to take titles to Point Isabel property from Basse & Hord, or from Cavazos?

6. Have or have not Robert H. Hord and Elisha Basse, Charles Stillman, Samuel A. Belden, or has either of them, stated to you, or in your presence, that, for want of pecuniary means, Mussina, or the Mussinas, would be unable to contend against them, or sustain lawsuits for the Brownsville town property, which he or they claimed, or words to that substance? State all, or in full, the information you may have on this subject.

7. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination on the matters in question in the cause? If yea, set forth the same fully and at length in your answer.

WOLFE & SINGLETON,
Attorneys for Plaintiffs.

The defendants, Basse & Hord and Belden, saving and reserving all and all manner of exceptions to the above interrogatories, and to the answers thereto, waive propounding any cross-interrogatories.

BONFORD & FINNEY,
Attorneys for Basse & Hord and Belden.

Reserving all legal exceptions; no cross-interrogatories.

HOFFMAN & OGDEN,
For WM. ALLING.

JACOB MUSSINA	{	In fourth district court of New Orleans, State of Louisiana.
<i>vs.</i>		
WM. ALLING and others.	}	

THE STATE OF TEXAS, *Cameron county, to wit:*

Be it remembered, that on this 13th day of December, A. D. 1852, personally appeared before me, Stephen Powers, chief justice of the county of Cameron and State of Texas, by virtue of a commission to me directed in the above entitled cause, Henry N. Caldwell, a witness on the part of the plaintiff herein, who, being by me first duly sworn to declare the truth, the whole truth, and nothing but the truth, in answer to the interrogatories to him, said Caldwell, in this behalf propounded, answering, says:

To the first interrogatory the witness says:

I reside at Point Isabel, Cameron county, Texas.

To the second interrogatory the witness says:

I am about thirty-eight years of age.

To the third interrogatory the witness says:

In the early part of the past spring I wrote to a friend in New Orleans to consult with the Mussinas as to the rights and claim which they set up to the Point Isabel property; and if, upon inquiry, it resulted that they had a title, or either of them had, then to ascertain

upon what terms, or in what manner, the right or title could be obtained to the property referred to in this interrogatory. I never made a formal overture to purchase their or either of their title. The answer returned was, that they were not prepared to make any definite arrangement in regard to the matter.

To the fourth interrogatory the witness says:

About the month of June last, as near as I can recollect, I applied to Elisha Basse in reference to the ownership of the Point Isabel land. He told me that he considered the title of the Cavazos family superior to any title held by Mussina, and advised me to take a title from the Cavazos for the privilege of erecting a wharf, which I did. I do not recollect the names signed to it, as I have not the instrument by me. I am inclined to think that Treanor signed the instrument, as agent or attorney in fact for the Cavazos. In conversation with Charles Stillman about the same time, in reference to this subject, he expressed to me the same opinion in regard to the ownership of the Point Isabel lands as expressed by Mr. Basse. I cannot recollect particulars.

To the fifth interrogatory the witness says:

That all I know on this subject I have stated in answer to interrogatory fourth. R. H. Hord has not been in the country since my inquiries in regard to this title have commenced.

To the sixth interrogatory the witness says:

I know nothing of the subject-matter of this question.

To the seventh interrogatory the witness says:

I know nothing further in regard to this matter.

H. N. CALDWELL.

In testimony whereof, I have caused the said witness to sign his name to his said answers herein, and have hereto set my hand and seal of office, at Brownsville, in said county, the day and year aforesaid.

STEPHEN POWERS,

Chief Justice Cameron county, Texas.

STATE OF LOUISIANA, }
Fourth District Court of New Orleans. }

I, William C. Auld, clerk of the fourth district court of New Orleans, State aforesaid, do hereby certify that the above and foregoing seven pages contain a true and faithful copy of the *commission* and of the *interrogatories* and *deposition* of Henry N. Caldwell thereto annexed, as the same were returned to this court by the commissioner therein named, in the case wherein Jacob Mussina is plaintiff and William Alling and others are defendants—number 4726 of the records of this court.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, on this ninth [L. s.] day of February, in the year of our Lord one thousand eight hundred and fifty-four, and in the seventy-eighth year of the independence of the United States of America.

WM. C. AULD, *Clerk.*

STATE OF LOUISIANA, }
Parish of Orleans, city of New Orleans. }

I, Mortimer M. Reynolds, rule judge of the fourth district court of New Orleans, State aforesaid, do hereby certify that William C. Auld, whose signature appears to the foregoing certificate, is now, and was at the time of signing the same, clerk of the said court, and that the signature "Wm. C. Auld, clerk," to the said certificate, is in the proper handwriting of him the said clerk; to his official acts as such full faith and credit are due; and I further certify his attestation to be in due form of law.

[L. S.] Given under my hand, at the city of New Orleans, on this 9th day of February, A. D. 1854.

M. M. REYNOLDS, *Judge.*

STATE OF LOUISIANA, }
Fourth District Court of New Orleans. }

I, William C. Auld, clerk of the fourth district court of New Orleans, State aforesaid, do hereby certify that Mortimer M. Reynolds, whose signature appears to the above and foregoing certificate, is now, and was at the time of signing the same, sole presiding judge of the said fourth district court of New Orleans, and duly commissioned and qualified as such; and that the signature "M. M. Reynolds, judge," to the said certificate, is in the proper handwriting of him the said judge. And I do further certify this to be a court of record, having common law jurisdiction.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, at the city of New Orleans, this 9th day of February, A. D. 1854.

WM. C. AULD, *Clerk.*

EXHIBIT F.

GALVESTON, *March 29, 1851.*

DEAR SIR: Having, in company with my partner, Elisha Basse, esq., purchased from Mr. Samuel A. Belden and Mr. Charles Stillman all their interest in the Brownsville property now involved in dispute in the suit brought against them by Don Rafael Garcia Cava-zos and others; and having thus succeeded to all their rights, since the commencement of this litigation, I beg leave to notify you that neither myself nor Mr. Basse consider that any agreement or contract made between our venders and yourself, in reference to your employment in support of their defence in the suit referred to, or otherwise, is still subsisting or binding upon us.

You must be aware that up to the present moment, so far from complying with your obligation under such a contract, if, indeed, it was ever valid, you have, by your neglect and protracted absence, compelled Messrs. Stillman & Belden and ourselves to employ other coun-

sel to attend to the conduct of their defence in these suits ; and at this late stage of the proceedings, when the principal cause has come to a hearing and been nearly concluded, your services cannot be supposed to lend the defence any additional strength.

I am obliged, therefore, in order to protect the rights and interest of my partner and myself, to say that we regard the agreement or contract before referred to, whatever may have been its original obligation, as now wholly cancelled, and any beneficiary interest which you may claim under it as entirely forfeited.

You will, of course, take such steps as you may consider it your duty to take under this express notification.

I remain, very respectfully, your obedient servant,

ROBERT H. HORD.

Hon. VOLNEY E. HOWARD.

EXHIBIT G.

To the honorable district judge of the twelfth judicial district, holding court in and for the county of Cameron, State of Texas.

The petition of Elisha Basse and Robert H. Hord, residents of the said county and State, respectfully represent unto your honor: That heretofore, to wit: on the first day of January, in the year of our Lord one thousand eight hundred and fifty-three, your petitioners were the possessors and legal owners of a certain parcel of land, with the appurtenances, situated in the said county of Cameron, State of Texas, known as the site of the town of Brownsville, and which said parcel of land was bounded as follows, that is to say: beginning at the most northern point or angle of the fence known as the quartermaster's fence, around Fort Brown; thence running due north to a line drawn at right angles to the termination of another line running five thousand Mexican varas magnetic north from the centre of the main plaza of the city of Matamoras; thence, after reaching said line so drawn as aforesaid, running along said line to a point due north of the place where the line of a survey for Charles Stillman strikes the Rio Grande, which place is understood to be so situated that the line passes directly through a warehouse built by John Young, in or near the town of Marsfield, or the site thereof; thence due south to the point above mentioned; thence following the meanders of the said Rio Grande down to the point where the western line of said quartermaster's fence strikes the said river, to the place of beginning.

And while your petitioners aforesaid were so seized and possessed of the said parcel of land, with the appurtenances, to wit: on the day and year aforesaid, Alfred W. Arrington, John Castain, Jules Bartice, J. B. Armstrong, Adolphe Peutrima, Luis Reynard, Morgan Barclay, John K. Leman, Patrick C. Shannon, Antonia Loria, Matthew Kevlin, Urbano Perrez, Philip Horn, John Garey, William D. Thomas, Samuel Kathrens, Henry Gisha, Bartoleme Grima, Owen Daly, Manuel Do-

minguez, T. E. Delmas, Theophile Delmas, Sarah McDonough, (administrator of the estate of John McDonough, deceased,) F. M. Bonvard, Francisco Armaga, William Gehine, Bruno Puento, John Jocquelin, Daniel Wolf, Pedro Lluns, Adolphus Lundote, Owen O'Neal, Peter Collins, A. H. Brown, Sandford Kidder, Charles Nagle, Cristoval Leza, R. B. Kingsburg, Henaluba Perrez, Juan Fernandez, William Passmore, Erancisco Gonzales, A. F. Watson, Theodore Von Bamm, Conrad Bloom, J. B. Burchard, D. H. Marks, William Johnson, Stephen Powers, Thomas W. Llemens, F. Donaldson, F. W. Latham, Budd H. Fry, J. F. Gannor, Blass Martinez, J. Swartz, Dennis Paradez, Alexander Werbiske, Robert S. Leman, John Gray, Thos. S. Ward, J. H. Tibbets, Emile Hendritchson, Joseph Moses, George Dye, Joseph S. Hixon, J. R. McFadden, Manuel Brevino, A. Lusenaw, Mario Trevinio, Frederick Boyle, Margaret Moxan, A. R. Mank, David Robinson, James Miller, D. Baiz, Rice Garland, A. Leo, Jacob Klewir, J. Castiele, Antonio Valcasal, Charles Nagle, Jefferson Barthelow, William W. Nelson, A. G. Brown, David Willett, E. M. Anderson, J. H. Richards, Peter Sharkey, George Schultz, William D. Thomas, John Artu, Henry Markwood, E. J. McLane, Pantina A. Fox, Daniel Dean, Pedro Lazas, Nicholas Chano, Luis Volradt, Charles Onken, E. B. Scarbourgh, Peter Nickels, E. Dougherty, Alfred E. McFadden, Lafayette Wolfe, Thos. G. Green, Richard Miller, D. H. Daneza, H. Moore, Eugenia Tappia, Victor Gonzales, Manuel Tappia, Thomas Dunbar, Carlos Catnet, J. Roca, D. B. Levy, Wm. W. Dunlap, and E. J. McLane, trustees of the people or city of Brownsville, in said county, as appointed by the honorable district court of said county, Cariano Tappia, Cynile Jean Baptiste Eagnior, Manuel Revaduela, Bridget Mullen, Francis M. Campbell, residents of said county and State, with force and arms broke and entered the case of your petitioners, to wit: the said parcel of land, and ousted and ejected your petitioners therefrom, and have taken possession of said parcel of land, and have ever since continued in such wrongful possession, taking and receiving the fruits and profits of said land to the value of fifty thousand dollars by the year, and other wrongs then and there done and committed against the peace of said State of Texas, and to the damage of your petitioners, twenty-five thousand dollars.

Wherefore your petitioners pray your honor to cause the said defendants, hereinbefore named, to be cited to appear at the next term of this court, then and there to answer the premises, and that by the course of law your petitioners may then have judgment for their damages aforesaid, moreover profits and costs of suit, and may recover possession of the said parcel of land, and for general relief, &c.

BASSE & HORD, *for themselves.*

STATE OF TEXAS, }
County of Cameron. }

I, William W. Nelson, clerk of the district court in and for the county and State aforesaid, hereby certify that the foregoing is a correct copy of the original now on file in my office, to certify which,

witness my hand and seal of office, at Brownsville, county and State aforesaid, this —— day of —— A. D. 1833.

Clerk District Court Cameron County, Texas.

EXHIBIT H.

GALVESTON, *June 11, 1850.*

DEAR SIR: In chancery case *Cavazos et al. vs. Stillman et al.*, the defendant, Jacob Mussina, calls for attested copies of the translations of every document in the Spanish language accompanying depositions of plaintiffs.

JACOB MUSSINA,

By his attorney in fact, SIMON MUSSINA.

Colonel JAMES LOVE,

Clerk United States District Court.

GALVESTON, *January 14, 1851.*

DEAR SIR: In reply to the note addressed to you on the 11th day of the present month, and exhibited to me yesterday, purporting to be signed by Jacob Mussina, acting by his so-called attorney in fact, Simon Mussina, in reference to the filing of certain translations of papers in the cause of *Cavazos* and others against *Stillman* and others, I have to say that, although I do not admit the authority of Simon Mussina to intermeddle in this cause without first filing his power of attorney under which he assumes to act, nor the right of Jacob Mussina to require the filing of any translations at this time, under the peculiar circumstances of the case, nevertheless, to avoid any occasion for the sitting of the pretext, which Mr. Mussina seems determined to assume, of not having sufficient time for the preparation of this cause, I now file several of the translations which have hitherto been in the hands of the counsel of Jacob Mussina and *Stillman* and *Belden*, and will file the others as soon as they are prepared, which will be in a few days.

Very respectfully, your obedient servant,

WILLIAM G. HALE.

To the CLERK OF THE U. S. DISTRICT COURT, *Galveston.*

I, John S. Jones, deputy clerk of the district court of the United States for the district of Texas, certify that the writing on the other side hereof is a true copy of two letters addressed to James Love, esq., clerk of the said court, and were recorded and opened by me.

Given under my hand, at the city of Galveston, this the fourth day of April, A. D. 1851.

JOHN S. JONES.

EXHIBIT I.

STATE OF TEXAS, *County of Cameron.*

Know all men by these presents, that we, Charles Stillman, Samuel A. Belden and Jacob Mussina, (by his attorney in fact, Simon Mussina,) all citizens of *the citizens* of the United States of America, are held and firmly bound unto Bridget Muller, a citizen of Cameron county, in the sum of five hundred dollars, the payment of which will cause truly to be made. We bind ourselves, and each of us, our heirs, and each of them, our executors, administrators and assigns, jointly and severally, firmly by these presents. Witness our hands and seals, (using scrolls for seals,) this the eighteenth day of January, one thousand eight hundred and forty-eight

Now, the condition of the above obligation is such, that whereas the above bounden Charles Stillman, Samuel A. Belden and Jacob Mussina, (by his attorney in fact, Simon Mussina,) have this day bargained and sold unto the said Bridget Muller, a citizen of Brownsville, in said county, a certain town lot lying and being in the town of Brownsville, in the county of Cameron, State of Texas, known and marked on George Lyons' maps of said town as lot number one (1), block number fifty-seven (57), fronting on Twelfth and Eighteenth streets, for the sum of two hundred and fifty dollars, upon the following conditions, to-wit: One-third of the purchase money in cash, (which is in hand paid, the receipt whereof is hereby acknowledged,) the remainder or balance in three equal instalments of six, twelve, and eighteen months, with legal interest from the date of this instrument.

Now, if the said Bridget Muller shall promptly and punctually make, or cause to be made, all payments as herein stipulated, then we hereby bind ourselves, our heirs executors, administrators, and assigns, to execute unto the said Bridget Muller, her heirs and assigns, a warrantee deed to the above described town lot; and in case she, the said Bridget Muller, should neglect, fail or refuse to make the said payments, or any of them, as herein agreed upon, then the first payment is to be forfeited to the within obligors, and this contract to be null and void.

CHARLES STILLMAN. [L. S.]

SAMUEL A. BELDEN. [L. S.]

JACOB MUSSINA, [L. S.]

Per Samuel A. Belden.

Signed, sealed, and delivered in presence of—

CORNELIUS PETERSON.

STATE OF TEXAS, *County of Cameron.*

Personally appeared before me, Thomas J. Stansbury, clerk of the county court of Cameron county, the within named Cornelius Peterson, the subscribing witness to the within bond, who, being duly sworn, deposeth and sayeth, that he saw the within named Samuel A. Belden sign, seal, and deliver the same to Bridget Muller; that

he, this deponent, subscribed his name as a witness thereto, in the presence of the said Samuel A. Belden, on the day and year therein named.

Given under my hand and seal of office, this 21st day of January, A. D. 1849. Filed for record January 21, A. D. 1849, at 12 [L. s.] o'clock m. Recorded January 22, A. D. 1849.

THOMAS J. STANSBURY,
Clerk and Recorder.

THE STATE OF TEXAS, *County of Cameron.*

I, the undersigned, J. J. H. Grammont, clerk of the county court, and recorder in and for the county of Cameron, State aforesaid, do hereby certify that the foregoing is a true and correct copy of the records in my office, from page 7 to page 8 of book B.

Given under my hand and seal of office, at Brownsville, on this [SEAL.] 14th day of February, A. D. 1850.

J. J. H. GRAMMONT,
Clerk of the County Court, Cameron County.

EXHIBIT J.

STATE OF TEXAS, *County of Cameron.*

Know all men by these presents that we, Charles Stillman, Samuel A. Belden, and Jacob Mussina, (by his attorney in fact, Simon Mussina,) are citizens of the United States of America, are held and firmly bound unto Jacob Miller, a citizen of Cameron county, State of Texas, in the sum of three hundred dollars, for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs and each of them, our executors, administrators, and assigns, jointly and severally, firmly by these presents. Witness our hands and seals, (using scrolls for seals,) this fifth day of January, one thousand eight hundred and forty-nine.

The condition of the above obligation is such, that, whereas the above bounden Charles Stillman, Samuel A. Belden, and Jacob Mussina, (by his attorney in fact, Simon Mussina,) have this day bargained and sold unto the said Jacob Miller a certain town lot lying and being in the town of Brownsville, in the county of Cameron, State of Texas, known and marked on George Lyons' map of said town as lot number eleven, block number fifty-eight, fronting on Levee street, for the sum of three hundred dollars, upon the following conditions, to wit: One-third of the purchase money in cash, (which is in hand paid, the receipt whereof is hereby acknowledged,) the remainder or balance in three equal instalments of six, twelve, and eighteen months, with legal interest from the date of this instrument.

Now, if the said Jacob Miller shall promptly and punctually make, or cause to be made, all payments as herein stipulated, then we hereby bind ourselves, our heirs, executors, administrators, and

assigns, to execute unto the said Jacob Miller, heirs and assigns, a warrantee deed to the above described town lot. And in case the said Jacob Miller shall neglect, fail, or refuse to make the said payments, or any of them, as herein agreed upon, then the first payment is to be forfeited to the within obligors, and this contract to be null and void.

CHARLES STILLMAN, [L. S.]
Per Samuel A. Belden.
 SAMUEL A. BELDEN. [L. S.]
 JACOB MUSSINA, [L. S.]
Per Samuel A. Belden.

Signed, sealed, and delivered in presence of—

CORNELIUS PETERSON.
 E. H. WINFIELD.

THE STATE OF TEXAS, {
County of Cameron. }

I, the undersigned, J. J. H. Grammont, clerk of the county court in and for the county and State aforesaid, duly qualified and commissioned, do hereby certify that on this day personally appeared Samuel A. Belden, to me known to be the individual described in the within instrument of writing, who stated that he executed the same both for himself and as attorney in fact for Charles Stillman and Samuel A. Belden, and acknowledged the same to be his act and deed, for the consideration and purposes therein stated.

Witness my hand and seal of office, at Brownsville, this 29th day [L. s.] of January, A. D. 1850.

J. J. H. GRAMMONT,
Clerk County Court, Cameron County.

Filed for record February 6, 1850, at 10 o'clock a. m.

J. J. H. GRAMMONT,
Clerk County Court, Cameron County.

THE STATE OF TEXAS, {
County of Cameron. }

I, the undersigned, J. J. H. Grammont, clerk of the county court, and recorder in and for the county of Cameron, State aforesaid, do hereby certify that the foregoing is a true and correct copy of the original now in my office on file for record.

Given under my hand and seal of office, at Brownsville, on this [L. s.] 14th day of February, A. D. 1850.

J. J. H. GRAMMONT,
Clerk County Court, Cameron County,

THE STATE OF TEXAS, {
County of Cameron. }

This indenture, made this — day of November, A. D. 1849, between Charles Stillman, Samuel A. Belden, and Jacob Mussina, by their agents and attorneys in fact, Elisha Basse and Robert H. Hord,

all of which said parties and agents are residents of the said county of Cameron, and State of Texas, and James McNabb, witnesseth : That the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, by and through their aforesaid agents and attorneys, the said Basse and Hord, for and in consideration of the rent and covenants presently hereinafter specified, mentioned, and reserved, on the part of the said Stillman, Belden, and Mussina, their or either of their heirs, executors, administrators, and assigns, to be paid, kept, and performed, hath demised, let, and to farm let, and by these presents doth demise, let, and to farm let, unto the said James McNabb, his executors, administrators, and assigns, all that lot, piece, or parcel of land, situate and lying in the town of Brownsville, in said county of Cameron, in said State of Texas, bounded on the northwest by Elizabeth street, on the southeast by an alley, and eastwardly by lot No. 3, (three,) and westwardly by lot No. 5, (five,) in block No. 58, (fifty-eight,) more particularly presently described ; which said piece, parcel, or lot of land is known as lot No. 4, (four,) in block No. 58, (fifty-eight,) in the map of said town of Brownsville, drawn by George Lyon, together with all and singular the rights, privileges, and improvements, tenements, and appurtenances thereunto belonging, or in any manner incident or appurtenant. To have and to hold the said lot or parcel of land and messuage, and all and singular the premises hereby demised, with the appurtenances, unto the said James McNabb, his executors, administrators, and assigns, from the said day of November above named until the first day of January next ensuing, to wit : until the first day of January, A. D. 1850, yielding and paying unto the said Basse and Hord, agents as aforesaid of the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, their heirs and executors, administrators and assigns, the monthly rent or sum of ten dollars per month, payable monthly, on the first day of each month, commencing and to be computable from the first day of the present month of November. And the said James McNabb, for himself, his heirs, executors, and administrators, doth covenant, and agree, and promise, to and with the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, acting by their aforesaid agents, Basse and Hord, and with the heirs, executors, and administrators, &c., of the said Stillman, Belden, and Mussina, by these presents, that he, the said James McNabb, his heirs, executors, and assigns and administrators, or some of them, shall well and truly pay, or cause to be paid, unto the said Stillman, Belden, and Mussina, by and through their agents and attorneys, the said monthly rent or sum of money of ten dollars, hereby specified and reserved, on the several days and times hereinbefore mentioned and appointed for the payment thereof, according to the true intent and meaning of these presents. And the said James McNabb further covenants, for himself, his heirs, administrators, and executors, that, on his or their failing to pay, or cause to be paid, the said Stillman, Belden, and Mussina, by and through their said attorneys and agents, Basse and Hord, any, or all, or one of the said sums as rent, specified and reserved, on the days and times reserved and specified, then, and in that event, this lease shall determine and be

ended, the said Basse and Hord, as agents as aforesaid, or the said Charles Stillman, S. A. Belden, and Jacob Mussina, or their legal and authorized agents, shall have full power to enter upon said lot of ground and premises demised, and evict the said McNabb therefrom without any resort to legal remedies.

In testimony whereof, the said James McNabb and the said Basse and Hord, agents as aforesaid, have hereunto set their hands and seals, (using scrolls for seals) this the day and year above written.

BASSE & HORD. [L. s.]

JAMES McNABB. [L. s.]

Signed, sealed, and delivered in presence of—

THOMAS McNABB.

ADOLPHUS GLACVICKE.

THE STATE OF TEXAS, *County of Cameron.*

I, the undersigned, J. J. H. Grammont, clerk of the county court in and for the county of Cameron, State aforesaid, do hereby certify that on this day, before me, personally appeared Thomas McNabb, to me well known, who, being by me duly sworn, deposed and said: That he knows James McNabb and R. H. Hord, the persons described in the within instruments of writing; that he saw them sign, seal, and deliver the same; and that they severally acknowledged the same as their act and deed, for the purposes and consideration therein set forth, and that thereupon he, the said Thomas McNabb, at their request, signed the same as a witness thereto.

Witness my hand and seal of office, this twelfth day of November, [SEAL.] A. D. 1849.

J. J. H. GRAMMONT.

Clerk County Court, Cameron County.

Filed for record November 12, 1849, at 4 o'clock p. m., and duly recorded the same day.

THE STATE OF TEXAS, *County of Cameron.*

I, the undersigned, J. J. H. Grammont, clerk of the county court, and recorder in and for the county of Cameron, State aforesaid, do hereby certify that the foregoing is a true and correct — of the records in my office, from page 21 to page 23 of book E.

Given under my hand and seal of office, at Brownsville, on this [SEAL.] fourteenth day of February, A. D. 1850.

J. J. H. GRAMMONT,

Clerk County Court, Cameron County.

EXHIBIT L.

THE STATE OF TEXAS, *County of Cameron.*

Know all men by these presents, that we, Elisha Basse and Robert H. Hord, citizens of the county of Cameron and State of Texas aforesaid, for and in consideration of the sum of two hundred dollars, to

us secured to be paid by the certain promissory note of C. A. Harper, of the said county and State, of even date herewith, and payable four months after date, with legal interest thereon, have this day bargained, sold, aliened, conveyed, and quit claimed, and by these presents do bargain, sell, alien, convey, and quit claim, all our right, title, interest, and estate, of and to a certain tract, parcel, or piece of land, being a certain lot in the town of Brownsville, in the aforesaid county of Cameron and State of Texas, known on a plan of said town as lot No. seven, (7,) block No. sixty-three, (63,) fronting on Washington and Twelfth streets, and fronting fifty feet on Washington street and one hundred and twenty feet on Twelfth street to an alley. To have and to hold the aforesaid premises, unto him, his heirs, and assigns, together with all and singular the rights, members, hereditaments, and appurtenances thereunto belonging, or in anywise incident or appurtenant, forever. It is hereby understood, however, that we do not specify or designate any particular map, as in legal import of the word, as connected with the town, but only to the map presently by us to be made and put on record.

Witness our hands and seals, this the third day of February, one thousand eight hundred and fifty, scrolls being used instead of seals.

ROBERT H. HORD. [SEAL.]

ELISHA BASSE. [SEAL.]

Signed, sealed, and delivered in the presence of—

ADOLPHUS GLACVICKE.

THE STATE OF TEXAS, *County of Cameron.*

I, the undersigned, J. J. H. Grammont, clerk of the county court in and for the county and State aforesaid, do hereby certify that on this day, before me, personally appeared Robert H. Hord and Elisha Basse, to me known to be the persons described in the foregoing instrument of writing, who severally stated that they executed the same, and acknowledged that it was their act and deed for the consideration and purposes therein set forth.

Witness my hand and seal of office, at Brownsville, this third day of February, A. D. 1850.

J. J. H. GRAMMONT,

Clerk County Court, Cameron County.

Filed for record February 4, 1850, at 10 o'clock a. m.

J. J. H. GRAMMONT,

Clerk County Court, Cameron County.

EXHIBIT M.

JACOB MUSSINA

vs.

CHARLES STILLMAN and others.

} United States district court, dis-
} trict of Texas.

Be it remembered, that at the rule day, in the month of May, in the year of our Lord one thousand eight hundred and fifty, the following entry was made upon the order book of this court, to wit:

JACOB MUSSINA
vs.
 CHARLES STILLMAN and others. }

Joseph H. Swett, solicitor, enters appearance of R. H. Hord, one of the defendants in this cause.

UNITED STATES DISTRICT COURT, *District of Texas.*

I, James Love, clerk of the district court of the United States for the district of Texas, certify that the foregoing is a correct copy of an entry made upon the entry book of this court, at the May rules thereof, in the year 1850.

Given under my hand and the seal of said court, this twentieth day
 [SEAL.] of March, in the year of our Lord one thousand eight hundred and fifty-one.

JAMES LOVE, *Clerk.*

EXHIBIT N.

DON RAFAEL GARCIA CAVAZOS *et al.* }
vs. } In ejectment.
 SIMON MUSSINA. }

Basse & Hord, attorneys and solicitors for defendant, appear and pray the court to order that the plaintiffs, by themselves or their solicitors, come before the honorable United States district court in Galveston, and show by what authority they, and each of them, respectively, instituted this suit, or caused the same to be instituted, on or before the first Monday in June next.

BASSE & HORD,
Solicitors and Counsel.

MARCH 3, 1849.

Granted :

WATROUS.

UNITED STATES OF AMERICA, }
District of Texas. }

I, James Love, clerk of the district court of the United States for the district of Texas, at Galveston, certify that the above is a true copy of a motion filed in the law case, No. 134, wherein Rafael Garcia Cavazos *et al.* are plaintiffs, and Simon Mussina is defendant, now depending in said court.

In testimony whereof, I hereto set my hand and affix the seal of
 [SEAL.] said court, at the city of Galveston, this 17th day of November, A. D. 1852.

JAMES LOVE, *Clerk.*

I, John C. Watrous, the judge of the district court of the United States for the district of Texas, do hereby certify that James Love,

whose signature appears to the foregoing certificate, is, and was at the time of signing the same, the clerk of the said court, and that full faith and credit are due to his acts and doings as such, and that the above is in due form of law.

Given under my hand, January 17, 1856.

JOHN C. WATROUS.

EXHIBIT O.

The title to the land in which Fort Polk, at Point Isabel, is situated, including the surrounding lands, to the extent of seven leagues, two labors, and 415,328 square varas, is vested in the heirs and legal representatives of Rafael Garcia, lately deceased, by the following authentic acts: Prior to the year A. D. 1821, the said Rafael Garcia occupied, possessed, and enjoyed the tract of land in question, then designated as Santa Isabel, lying upon the Laguna del Madre, in the State of Tamaulipas. He first came into occupancy and enjoyment of it as a tenant of the Crown of Spain; after the declaration of independence by the Mexican States, he continued to possess and enjoy the same, as the tenant of the said Mexican States, and finally as the acknowledged tenant of the State of Tamaulipas. The said Rafael Garcia petitioned the said State of Tamaulipas to grant him said land in fee; this grant was opposed by the heirs of one Don José Salvador de la Garza, deceased, on the allegation that the same had been granted to their ancestor previously by the Crown of Spain.

Wherefore, the heirs of the said Don José Salvador de la Garza and the said Rafael Garcia were cited to appear before the proper tribunal of the State of Tamaulipas, charged with the trial and determination of such cases; and after full and thorough investigation of the said case, the said tribunal decided in favor of the validity of the title and right of possession of the said Rafael Garcia on the 26th day of January, A. D. 1829. He was duly and legally installed in the possession thereof, and on the 20th day of May, 1829, a full and complete legal title was issued and delivered to him, for all said land, by Juan Camera, secretary of the said State of Tamaulipas. The decision was acquiesced in, and became, and was in fact, final and conclusive between the parties.

The said Rafael Garcia continued to own, hold and possess all said land, without disturbance or question from any quarter, till the period of his death, in the year 1842. He left, at the period of his death, his wife, Guadalupe *Sisnevas de Casas*, and his two daughters, to wit: Doña Angela Garcia de Tarneva and Felipa Garcia de Maniton, both of the latter of whom still survive, and the legal heirs and representatives of the said Rafael Garcia, deceased. From the period of the demise of the said Rafael, up to the eviction of the said heirs in March, A. D. 1846, by the American army, under the command of General Taylor, these heirs remained and continued in peaceable undisputed possession and ownership of all this property; cultivating and renting portions of the same, and realizing therefrom a very con-

siderable income. Thus it is evident that their legal title and actual possession are shown to have been clear and indisputable up to the moment of time the forces of the United States expelled them from their said property, and appropriated a valuable portion of the same to the public use. This portion is still held by the government of the United States, and the owners have hitherto sought in vain for compensation or redress.

WASHINGTON, *September* 26, 1850.

The foregoing statement of the origin and nature of the title of the heirs and legal representatives of Rafael Garcia, lately of the city of Matamoras, deceased, to the tract of land therein described and known as Santa Isabel, was made out by me from a careful examination of the facts and authentic documents referred to and mentioned, to be submitted to the committee of the Senate in settling affairs.

I have deliberately considered all the facts relating to this title, as well as the public act on which it depends for validity, and am clearly of opinion that the said title is valid against all the world, and vests in the said heirs, &c., of Rafael Garcia, deceased, an indefeasible right to possess and enjoy the land in question as the absolute property of their ancestor.

OVID F. JOHNSON.

EXHIBIT P.

Know all men that we, Rafael Garcia Cavazos, son of D. Juan J. Garcia and Doña Maria Bozalia de Leon, and Maria Josefa Cavazos, his wife, daughter of D. Macsimo Cavazos and Doña Maria Ignacia Cavazos, both of the city of Matamoras, in the State of Tamaulipas, and the United Mexican States, for and in consideration of the sum of one thousand dollars to us in hand paid, by the parties hereinafter named, the receipt whereof is hereby acknowledged, and of the services to us already rendered, have given, granted, bargained and sold, aliened, transferred and conveyed, and do by these presents give, grant, bargain and sell, alien, convey, and transfer to Ebenezer Allen and William George Hale, of the city of Galveston, and State of Texas, in the United States of America, one undivided tenth part of all our right, title and interest, in and to a certain tract of land lying on the left bank of the Arroyo Colorado, in the county of Cameron and State of Texas, containing one hundred and six and one-half sitios of land, more or less, known as San Juan de Carrisites, granted to Don José Narcisso Cavazos, and more particularly described in the testimonio of title issued to the said Don José Narcisso Cavazos, a correct copy whereof has been recorded in the office of the county clerk of the county of Nueces and State of Texas; and of the distributive shares belonging to the said Maria Josefa Cavazos, being her separate property, together with one undivided tenth part of all town sites, lagunas, streams, water ways, and all appurtenances whatever belonging or in any way appertaining to her said portion of the said tract of land,

to have and to hold the same unto the said Allen and Hale, their heirs and assigns, as tenants in common with us, our heirs and assigns forever.

And we do hereby, for ourselves, our heirs, executors and administrators, covenant with the said Allen and Hale, their heirs and assigns, to agree to, and effect a partition of our respective portions of the said tract of land, as soon as the distributive shares aforesaid of the said Maria Josefa Cavazos, or any part of it apportioned to her, and her title to the land, has been established by the decree or judgment of a competent court in last resort; and we do further covenant and warrant the interest and land hereby conveyed against all persons hereafter claiming from or under either of us.

In faith whereof, after having read us the accompanying translation in the Spanish language of the above deed of conveyance, we have hereunto set our hands and affixed our seals, at the said city of Matamoras, on this the twelfth day of December, in the year of our Lord one thousand eight hundred and forty-nine.

RAFAEL GARCIA CAVAZOS. [L. S.]

MARIA JOSEFA CAVAZOS. [L. S.]

Signed, sealed and delivered in the presence of—

JUAN TREANOR.

THOMAS W. SLEMONS.

UNITED MEXICAN STATES, }
Consulate of the U. S. A., city of Matamoras. }

Before me, Thomas W. Slemons, consul of the United States of America, in the said city of Matamoras, personally appeared Doña Maria Josefa Cavazos, wife of Don Rafael Garcia Cavazos, parties to a certain deed of conveyance hereto annexed and above written, bearing date on the twelfth day of December, A. D. 1849; and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Doña Maria Josefa Cavazos, acknowledged the same to be her act and deed, and declared that she had willingly signed, sealed, and delivered the same, and that she wished not to retract it. To certify which, I hereto set my hand and affix my official seal, this twelfth day of December, A. D. 1849.

THOMAS W. SLEMONS.

THE STATE OF TEXAS, }
County of Cameron. }

I, the undersigned, J. J. H. Grammont, clerk of the county court in and for the county of Cameron, State aforesaid, do hereby certify that on this day before me personally appeared John Treanor, to me personally known, who, being duly sworn, under his oath stated that he saw Rafael Garcia Cavazos and Maria Josefa Cavazos, his wife, the individuals described in the foregoing instrument of writing, subscribe the same, and that they acknowledged that it was their act and deed for the purpose and consideration therein stated; and that thereupon he, the said J. Treanor, signed the same as witness thereto, at the

grantor's request; the words, "and Maria Josefa Cavazos, his wife," interlined.

Witness my hand and seal of office, at Brownsville, on this twenty-[L. s.] seventh day of April, A. D. 1851.

J. J. H. GRAMMONT,

Clerk of County Court, Cameron County.

Filed for record April 29, A. D. 1850, at 10 o'clock a. m.

Sepase y á todos sea notorio: Que nosotros, Rafael Garcia Cavazos, hijo de Don Juan José Garcia y de Doña Maria Rosalia de Leon, y Maria Josefa Cavazos, su esposa, [hija] de Don Macsimo Cavazos y Doña Maria Ignacia Cavazos, ambos de la ciudad de Matamoras en el Estado de Tamaulipas de los Estados Unidos Mexicanos, por y en consideracion de mil pesos que á nuestros senos han pagado las partes nombradas en seguida, y por los servicios que á nuestros senos han hecho las dichas partes, hemos dado, concedido, contratado, y vendido, enagenado, transferido y traspasado, y por lo presente damos, concedimos, contratamos, y vendimos, enagenarnos, transferimos, y traspasimos á Ebenezer Allen y Guillermo George Hale, de la ciudad de Galveston y Estado de Texas, en los Estados Unidos de America, una decima parte indivisa de todo nuestro dominio, titulo y interes cualesquiera que sea en un terreno situado sobre la orilla isquierda del arroyo Colorado, en el condado de Cameron y Estado de Texas, continiendo ciento seis y medio sitios de ganado mayor mas ó menos, concedido á Don José Narcisso Cavazos, conocido con el nombre de San Juan de Carrisetos, y mas particularmente demostrado en el testimonio de titulo espedido al dicho Don José Narcisso Cavazos, una copia fiel del cual ha sido registrado en la oficina del escribano del condado de *Cameron* Nueces y Estado de Texas, y de la parte distributiva del dicho terreno que pertencio á la dicha Doña Maria Josefa Cavazos, siendo la propiedad separada de la dicha señora: Ademas con la decima parte indivisa de todas los asientos de pueblos, lagunas, arroyas, aguas, caminos, y toda la pertinencia cualquiera sea, que toca ó en cualquiera manera pertencia á la parte distributiva de la dicha señora, con el fin de haber y tener la misma para los dichos Allen y Hale, sus herederos, compradores, ó donatorios, para siempre.

Y nosotros por lo presente, en nuestros nombres y en los nombres de nuestros herederos, albaceas y administradores, convenimos con los dichos Allen y Hale, sus herederos y compradores ó donatinos á convenir en una particion de nuestras porciones respectivas del dicho terreno y á effectuar la misma tan luego como la parte distributiva de la dicha Doña Maria Josefa Cavazos ó cualquiera parte de ella esta dividida fuera nuestros y el titulo de la dicha señora ha sido establecido por un decrito ó juicio en un tribunal competente en el ultimo resorte: y ademas convenimos á garante y para siempre defensa en titulo y la tierra por este traspasado contra todos las personas que despues pueden pretender algun derecho de uno ú otro de nosotros.

En fe de lo cual, despues haber leído para nosotros la traduccion del traspaso arriva escrito que se acompaña en el idioma Español, firmamos y sellamos lo presente en la dicha ciudad de Matamoras el [doce]

dia de Diciembre, en el año del Señor de mil ochocientos cuarenta y nueve.

Firmado, sellado y entregado en presencia de —

THE STATE OF TEXAS, }
County of Cameron. }

I, F. W. Latham, clerk of the county court, in and for the county and State aforesaid, do hereby certify that the foregoing is a true and correct copy, taken from book A of real estate, pages 587, 588, 589, 590, and 591.

To certify which, witness my hand and seal of office, this the 12th day of June, A. D. 1852.

[SEAL.]

F. W. LATHAM,
Clerk County Court for Cameron County, Texas.

THE STATE OF TEXAS, }
County of Cameron. }

I, Alphonso Hurtel, chief justice of the county of Cameron, in said State, and presiding judge of the county court of said county, do hereby certify that Francis W. Latham, who has signed the foregoing certificate, is the clerk of the county court of said county, and the keeper of the records of the same, and that the said actuation is in due form and by the proper officer.

Witness my hand and official seal at Brownsville, the fourteenth day of June, A. D. 1852.

[SEAL.]

ALFRED HURTEL, C. J. C. C.

THE STATE OF TEXAS, }
County of Cameron. }

I, Francis W. Latham, clerk of the county court of said county of Cameron, do hereby certify that Alfonso Hurtel, who has signed the foregoing certificate, is the chief justice of the county of Cameron, and the presiding judge of the county court of said county of Cameron, and is duly commissioned and qualified as such officer.

In testimony whereof, I have hereunto set my hand and seal of office, at my office, in the town of Brownsville, county and State aforesaid, this the 16th day of June, A. D. 1852.

[SEAL.]

F. W. LATHAM,
Clerk County Court for Cameron County, Texas.

EXHIBIT Q

UNITED STATES MARSHAL'S OFFICE,
Galveston, October 4, 1853.

SIR: You will find enclosed two *pluries* executions, issued in the chancery court, of Rafael Garcia Cavazos *et al.* vs. Charles Stillman *et al.* against Stillman, Belden, Mussina, and Shannon. The death of R. C. Cavazos, of which I am informed, does not affect these execu-

tions, that plaintiff being merely a nominal party. Messrs. Stillman and Belden have paid their proportion—*i. e.*, one-half of the amount of the executions—which has been duly credited to them. The other half, with the mileage, fees for service levy, &c., including commissions, is to be collected from the other defendants, Jacob Mussina and P. C. Shannon, the items of and amount of which I enclose you in the paper marked D.

You will therefore collect on the execution No. 223, in favor of the complainants, the sum of five hundred and sixty-one dollars and sixty cents, and on execution No. 224 the further sum of two hundred and fifty dollars and eighty-eight cents. In case the money is paid on demand, you will collect the money due on the executions, mileage, and one-half commissions, counting only one set of fees for both defendants in each execution.

You will first make a demand on Jacob Mussina and P. C. Shannon, if they are in the county, if not, on any agent or attorney of theirs, if to be found in the county, for the money due on the executions. If neither they, nor an agent, nor attorney of theirs, can be found, or if payment is not made on the day of the demand, you will then apply to Mussina or Shannon, or their *authorized* agent or attorney, to designate property on which a levy can be made. By attorney is here meant attorney in fact, so constituted by power in writing, *not* attorney at law. The property pointed out must belong to Mussina and Shannon, and must be *unincumbered* by mortgage or other lien. In case such property is designated, you will make your levy upon *that*, and proceed as directed below ; but you will be careful to be satisfied as to the title of such property, otherwise you may *involve* the marshal.

If neither Mussina and Shannon, nor their agents, &c., can be found in the county, or if they fail or refuse on the day of your demand to point out adequate property with good title, you will next levy immediately on *personal* or moveable property ; second, on uncultivated lands ; third, on slaves ; and lastly, on the improved lands or homestead of the defendants. You will except from the levy, if on personal property, the articles enumerated in article 1270 Hartley's Dig. ; and if on land about the homestead, and not in a town or city, two hundred acres, laid off as nearly as possible in a square about the house ; if in a town or city, lots not exceeding two thousand dollars in value, immediately about the house. These exceptions of land, however, you will not make, unless the defendants have wives or children residing with them generally on the land.

The complainants, who have a right to control these executions, have designated to me certain interests or property claimed by defendants, out of which the money may be made ; and in case you cannot find personal property, you will therefore levy first on the right, title, and interest of Mussina and Shannon in the lands described in the accompanying memorandum, marked (A.) You will find enclosed the form in which this levy is to be endorsed on the execution, marked (B.) You will then put up three notices of sale, each at some public place in the county, one at the court-house door, full twenty days

before the sale day ; the form of these notices is also enclosed, marked (C.)

These executions will probably not reach you in time for the sale day in November ; you will therefore advertise the property, if real estate, for sale on the first Tuesday in December. On that day, you will attend at the court-house door, between 10 o'clock a. m. and 4 o'clock p. m., and put up the property for sale to the highest bidder for *cash*. You will make a deed to the purchaser, the form for which will be sent you hereafter, receive the purchase-money, procure a draft from some reputable house of your place on New Orleans, less your fees, and remit the same, together with the executions, *property returned*, to this office without delay. Anything remaining, after satisfying the executions and fees, you will pay over to the defendants or their agent.

And, in relation to any matters not embraced in these instructions, you will be governed by the advice of Messrs. Allen & Hale, solicitors for the complainants, who have the control of these executions, or by that of such person or persons to whom they may see fit to refer you, for which they will be *responsible* to me.

BEN. McCULLOCH, *U. S. M.*

By J. A. H. CLEVELAND, *Deputy*.

J. K. LEMAN, Esq.,

U. S. Deputy Marshal, Brownsville.

And I certify this to be a true copy of a letter of instructions sent J. K. Leman, deputy marshal, Brownsville, October 4, 1853.

BEN. McCULLOCH, *U. S. M.*

By J. A. H. CLEVELAND, *Deputy*.

DECEMBER 14, 1853.

The marshal, in default of personal property, will please levy on—

1. All the right, title, and interest of Jacob Mussina in and to the following described land, to wit : All that tract of land lying on the left bank of the Rio Grande, in the county of Cameron, State of Texas, opposite to the city of Matamoras, including the town site of Brownsville, and bounded as follows : beginning at the most northern point, or angle, of the fence, known as the quartermaster's fence, around Fort Brown ; thence running due north to a line drawn at right angles to another line running five thousand varas, magnetic north, from the centre of the main plaza of the said city of Matamoras ; thence, and after *reading* said line so drawn as aforesaid, running along said line westwardly to the point due north of the place where the line of a survey for Charles Stillman strikes the Rio Grande, which place is so situated that the line runs near to the former site of a warehouse built by John Young in or near the town site of Mansfield ; thence due south to the said place on the Rio Grande ; thence along the meanders of the said Rio Grande, down the stream to where the western or upper line of the said quartermaster's fence strikes the said river ; thence along the said fence to the place of beginning.

2d. All the right, title, and interest of Patrick C. Shannon in and

to the following described land, to wit: All that tract of land known as the labor of Nicholas José Cavazos, and the present site of the town of Treport, in the county of Cameron and State of Texas, fronting on the Rio Grande, opposite to the site of Fort Parades, granted by the ayuntamiento of Matamoras to the said Cavazos, and by him conveyed to said Shannon; for a full description whereof, reference is made to the title and conveyances on record.

ALLEN & HALE,
For Complainants.

And I certify this to be a true copy of the memorandum marked (A,) of which mention is made in the letter to J. K. Leman, deputy marshal, Brownsville, dated October 4, 1853.

BEN, McCULLOCH,
U. S. Marshal.

By J. A. H. CLEVELAND,
Deputy.

DECEMBER 14, 1853.

EXHIBIT R.

UNITED STATES OF AMERICA, }
District of Texas. }

The President of the United States of America to the marshal of the district of Texas, or to his lawful deputy, greeting:

Whereas, in a certain cause depending in the district court of the United States for the district of Texas, in chancery, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estefano Goseascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Lafon de Tarnava, Ramon Lafon, Feliciano de Tijerina, and Josef Manuel Prieto are defendants, it was, at the January term, 1852, at our said district court, among other things, decreed: That the costs of said parties be referred to James Love, esq., (to be taxed, as master in chancery, and that the defendants, Charles Stillman, Samuel A. Belden, Jacob Mussina, and Patrick C. Shannon, pay all the costs properly incurred by said complainants therein:

And whereas the said James Love, as master in chancery, as aforesaid, in pursuance of said decree, did, on the 24th day of August, A. D. 1852, make and file his report thereon, wherein and whereby it is declared that said complainants are entitled to recover of and from said defendants, Charles Stillman, Samuel A. Belden, Jacob Mussina, and Patrick C. Shannon, the sum of one hundred and sixty-six dollars and twenty-five cents, paid by said complainants for taking depositions in said causes, and the sum of one hundred and thirteen dollars and thirty-seven cents, paid by him for themselves, and the sum of six hundred and ninety-four dollars and sixty-one cents, the amount

of costs for which said complainants are liable to the clerk of the district court, together with the sum of seventy-two dollars, the amount of costs due to the marshal, making in all the sum of one thousand and forty-six dollars and twenty-three cents, (\$1,046 23,) and for which said complainants are entitled to have execution; and whereas more than one month has elapsed since the filing of the said report of the said master, and no exceptions thereto having been filed: These are, therefore, to command you, as you have at other times been commanded, that of the goods and chattels, lands and tenements, of the said Charles Stillman, Samuel A. Belden, Jacob Mussina, and Patrick C. Shannon, you cause to be made the said sum of one thousand and forty-six dollars and twenty-three cents, together with the further sum of two dollars due the clerk for issuing an *alias fi. fa.* and this writ, and also all legal fees and commissions for collecting the same. Herein fail not; and have you the said money before us, at the clerk's office of our said court, on or before the first Monday in January next, so that you render the same to the said complainants, together with this writ, certifying how you have executed the same.

Witness the honorable John C. Watrous, judge of the said court,
[SEAL.] and the seal thereof, at the city of Galveston, this 23d day of August, A. D. 1853.

JAMES LOVE, *Clerk.*

Marshal's receipt and returns.

Received August 23, 1853. And on the 26th day of September, 1853, the sum of five hundred and twenty-four dollars and ten cents was paid by Stillman and Belden, making their proportionate share of this execution. And on the 2d day of November, 1853, I received from P. C. Shannon the sum of one hundred and twenty-three dollars and fifty cents, to be credited to him on this execution. On the 5th day of November I called on Stephen Powers, esq., the agent of Jacob Mussina, the said Mussina not being found in my district, and requested him to point out property belonging to the said Jacob Mussina within this district liable to execution, on which I should levy this execution to make the balance due thereon; and the said Powers then and there pointed out the property described in a slip of paper given to me by him, as follows, to wit: The quantity of one league of land of uniform breadth, lying and extending along the western line of the land known as the Santa Isabel grant or tract, and being a part of the same, and bounding along the eastern line of lands known as the grant of the Espiritu Santo, the interest of Jacob Mussina in said league being one-half of five-sixths. I then went to the office of the county clerk of Cameron county, and requested the deputy clerk, Buda H. Fry, esq., to search the records of said county, and ascertain and certify to me whether or no the said Jacob Mussina had any title on record to the land as described as above stated. Whereupon the said deputy, after search, informed me, and gave me a certificate to that effect, that he had examined the records of said county, and could not find any record of a title to the said land in the

name of Jacob Mussina, nor any deed on record in the county of any part of the Point Isabel tract of land to the said Jacob Mussina, which certificate, with the slip of paper given me by said Powers, is annexed to this return. On the 7th day of November, 1853, I again applied to the said Powers either to exhibit to me the title deed of said Mussina to the land he had designated, as above stated, or to point out to me other property of the said Jacob Mussina liable to execution; but the said Powers refused to do either, and told me that he would hold the marshal responsible if I levied on any other property than that pointed out by him as aforesaid. And on the 14th day of November aforesaid, not having found any personal or movable property or slaves belonging to the said Jacob Mussina within this district, I levied the execution on the following described property or claim of the said Mussina, at the request of the plaintiff in this execution, "to wit:" all the right, title, and interest of Jacob Mussina in and to the following described land, to wit: all that tract of land lying on the left bank of the Rio Grande, in the county of Cameron, and State of Texas, opposite to the city of Matamoras, including the town site of Brownsville, and bounded as follows: beginning at the most northern point or angle of the fence known as the quartermaster's fence around Fort Brown; thence running due north to a line drawn at right angles to another line, running five thousand varas, magnetic north, from the centre of the main plaza of the said city of Matamoras; thence, and after reaching said line so drawn, as aforesaid, running along said line westwardly to the point due north of the place where the line of a survey for Charles Stillman strikes the Rio Grande, which place is so situated that the line runs near to the former site of a warehouse built by John Young, in or near the town site of Mansfield; thence due south to the said place on the Rio Grande; thence along the meanders of the said Rio Grande, down the stream to where the western or upper line of the said quartermaster's fence strikes the said river; thence along the line of said fence to the beginning. And on the 15th day of November aforesaid I put up advertisements in due form of the said levy and the sale of said property or claim, to take place on the first Tuesday in December, 1853, a copy whereof is hereto annexed, posting said advertisements in three public places in the county of Cameron, and one on the court-house door of said county, another at the house of Champion, at Point Isabel, and the third on the market-house in the city of Brownsville. On the first Tuesday in December, it being the 6th day of the month, I proceeded to sell all the right, title, and interest of Jacob Mussina in and to the land heretofore described in this return, and bounded as set forth in the copy of the advertisement hereto annexed, between the hours of 10 o'clock a. m. and 4 o'clock p. m., at the court-house door of the county of Cameron, and which was on the premises seized in execution, and Milton Kenedy bid for the said property one hundred and fifteen dollars; and it being the highest and best bid made at said sale, the aforesaid land was knocked off and sold to said Kenedy, according to law; and the said Kenedy having complied with the terms of the aforesaid sale, on the 6th day of December aforesaid I

executed and delivered to the said Kenedy a conveyance of all the right, title, and interest which the said defendant in execution, Jacob Mussina, held in and to the property sold as aforesaid. I received from Charles Stillman and S. A. Belden and Patrick C. Shannon (they claiming recourse against Jacob Mussina for their payment) the balance due on this execution, with the costs, to wit: the sum of two hundred and ninety-five dollars and ninety-two cents, as follows: from said Stillman and Belden, jointly, the sum of two hundred and seventy three dollars and eighty-nine cents, and from said Shannon the further sum of sixteen dollars and twenty-nine cents, with which I return this execution as satisfied.

BEN. McCULLOCH,

United States Marshal.

By J. K. LEMAN, *Deputy.*

RAFAEL GARCIA CAVAZOS *et al.*

vs.

CHARLES STILLMAN *et al.*

} No. 41.—United States of America,
district of Texas.—In chancery.

By virtue of an execution to me directed from the district court of the United States for the district of Texas, in the above entitled cause, said execution being numbered 223, I have levied upon, and I will proceed to sell on the first Tuesday in December, 1853, being the sixth day of the said month, between the hours of ten o'clock, a. m., and four o'clock, p. m., before the court-house door of the county of Cameron, at public auction, to the highest bidder, for cash, the following described property, to wit: All the right, title, and interest of Jacob Mussina in and to the following described land, to wit: all that tract of land lying on the left bank of the Rio Grande, in the county of Cameron and State of Texas, opposite to the city of Matamoras, including the town site of Brownsville, and bounded as follows: beginning at the most northern point or angle of the fence known as the quartermaster's fence around Fort Brown; thence running due north to a line drawn at right angles to another line running five thousand varas, magnetic north, from the centre of the main plaza of the said city of Matamoras; thence, and after reaching said line as drawn, as aforesaid, running along said line westwardly to the point due north of the place where the line of a survey for Charles Stillman strikes the Rio Grande, which place is so situated that the line runs near to the former site of a warehouse built by John Young, in or near the town site of Mansfield; thence due south to the said place on the Rio Grande, down the stream to where the western or upper line of the said quartermaster's fence strikes the said river; thence along the line of said fence to the beginning.

BEN. McCULLOCH,

United States Marshal, District of Texas.

By J. K. LEMAN,

Deputy Marshal.

Slip of paper alluded to in the return :

“The quantity of one league of land of uniform breadth, lying and extending along the western line of the land known as the Santa Isabel grant or tract, being a part of the same, and bounding along the eastern line of lands known as the grant of the Espiritu Santo, the interest of Jacob Mussina in said league being one-half of five-sixths.”

Endorsement of execution.

RAFAEL GARCIA CAVAZOS <i>et al.</i>	}	223.
<i>vs.</i>		
CHARLES STILLMAN <i>et al.</i>		

Pluries *fi. fa.* for costs, \$1,048 23. Issued 23d August, 1853.

Another endorsement.

The marshal will credit this execution with thirty dollars, being an overcharge in the taxation of costs.

ALLEN & HALE,
Attorneys and solicitors for complainants.

NOVEMBER 2, 1853.

A true copy of execution and return, and papers referred to, with copy of advertisements.

E. T. AUSTIN.

And afterwards, to wit : on the seventeenth day of February of the same year, came the plaintiffs, by Ebenezer Allen and William G. Hale, esquires, their attorneys, and filed their motion in this cause, which is as follows, to wit :

MOTION.

MARIA JOSEFA CAVAZOS AND ESTEFANA	}	District court of the United
GOSEASCOCHEA DE CORTINA, surviving		
complainants,		at Galveston.— <i>In Chan-</i>
<i>vs.</i>	}	cery.
CHARLES STILLMAN and others, defend-		
ants.		

The surviving complainants in the above entitled cause, by their counsel, move the court to order that Jacob Mussina, one of the defendants in said cause, do stand attached for the breach of the injunction granted by the final decree, and issued and served on him in the said cause, in the particulars mentioned in their former motion, and in the order made thereon, and that a writ of attachment in due form do at once issue against him for his contempt committed in the breach of the said injunction, and in disobeying and disregarding the said final decree in the particulars aforesaid, or that the court make such other order as is necessary in the premises ; and the said com-

plainants refer, in support of their motion, to the proceedings and decree in the said cause to the affidavit of R. H. Hord, and other documents, filed on the former motion for a rule to show cause, and to the answer of the said Mussina to the said rule.

ALLEN & HALE,
Counsel for complainants.

FEBRUARY 16, 1854.

GENTLEMEN : Please to take notice, that on the 18th day of February instant, or as soon thereafter as counsel can be heard, we will call on for hearing the above motion.

ALLEN & HALE,
Counsel for complainants.

TO JACOB MUSSINA and D. D. ATCHISON,
His Solicitor and Attorney.

On which motion and notice, under same date, is the following affidavit of William G. Hale, esquire :

UNITED STATES OF AMERICA, }
District of Texas. }

I, William G. Hale, one of the solicitors of the said complainants, make oath and say, that on the morning of the 17th day of February, A. D. 1854, I delivered to D. D. Atchison, esquire, a true copy of the motion and notice on the reverse hereof written.

WILLIAM G. HALE.

Subscribed and sworn to before me, 17th of February, 1854.

JAMES LOVE, *Clerk.*

And afterwards, to wit : on the eighteenth day of February of the same year, came on to be heard the foregoing motion of the plaintiffs ; and thereupon the court made the following order, which is as follows :

MARIA JOSEFA CAVNZOS *et al.* }
vs. }
CHARLES STILLMAN *et al.* }

On this day came on to be heard the motion of complainants filed on the seventeenth day of February instant, for an attachment against Jacob Mussina, one of the defendants, and was argued by counsel ; and the court having duly considered the answer of the said defendants to the rule to show cause why the said attachment should not issue, and the testimony adduced as well for as against the said motion ; and, being now fully advised, it is ordered by the court that a writ of attachment, in due form, do at once issue to the marshal of this district, commanding him to attach the said Jacob Mussina, and have him before the court, immediately after the receipt of this writ, to answer touching a contempt which it appears he has committed against this court in a breach of the injunction granted by the final decree heretofore rendered in this cause in the following particulars :

First. By persisting, through his agent and attorney, in setting up and claiming a title in himself to a portion of the lands mentioned in the said decree, as to which he is thereby enjoined against the said complainants before the several departments of the government of the United States at the city of Washington, D. C., and particularly before the Quartermaster General and Secretary of War, on or about the eighteenth day of August, A. D. 1852, and thereafter in opposition to the title of the said complainant, Maria Josefa Cavazos. Second. By setting up and continuing to assert such claim of title in a suit instituted by him in the city of New Orleans and State of Louisiana, against William Alling, Charles Stillman, Samuel A. Belden, Elisha Basse, and Robert H. Hord; and, third, by claiming and asserting such title in himself to a portion of the land aforesaid, by his statements and those of his agents and attorneys in the matter before stated.

And afterwards, to wit: on the twenty-third day of February, A. D. 1854, came the complainants, by their attorneys, and filed their motion in this cause, which is in the words and of the tenor following, to wit:

MOTION.

DISTRICT COURT OF THE UNITED STATES,
District of Texas, at Galveston.

MARIA JOSEFA CAVAZOS <i>et al.</i>	} In Chancery—No. 41.
<i>vs.</i>	
CHARLES STILLMAN <i>et al.</i>	

The complainants move the court for leave to withdraw the original documents and copies on file in this cause, and making part of their proof, for the purpose of using said documents and copies as evidence in other causes.

ALLEN & HALE,
Counsel for complainants.

And afterwards, to wit: on the twenty-fifth day of February of the same year, an attachment against Jacob Mussina issued from the clerk's office of our said court, in the words following, to wit:

ATTACHMENT.

THE UNITED STATES OF AMERICA, }
District of Texas. }

The President of the United States of America to the marshal of the district of Texas, or any of his deputies, greeting:

You are hereby commanded to attach Jacob Mussina, so as to have him before the district court of the United States for the district of Texas immediately after the receipt of this writ, at the city of Galveston, in the district aforesaid, there to answer touching a contempt which he, as it is alleged, has committed against the said court, in a breach of the injunction granted by the final decree rendered in the cause

pending in the said court, wherein Maria Josefa Cavazos and Estafana Goseascochea de Cortina are now the surviving complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina and others are defendants in the following particulars: First, in persisting, through his agent and attorney, in setting up and still claiming a title in himself to a portion of the lands mentioned in the said decree, as to which he is thereby enjoined against the said complainants before the several departments of the government of the United States at the city of Washington, District of Columbia, and particularly before the Quartermaster General and Secretary of War, on or about the fifteenth day of August, A. D. 1852, and thereafter, in opposition to the title of the said complainant, Maria Josefa Cavazos. Second, by setting up and continuing to assert such claim of title in a suit instituted by him in the city of New Orleans, and State of Louisiana, against William Alling, Charles Stillman, Samuel A. Belden, Elisha Basse, and Robert H. Hord; and, thirdly, by claiming and asserting such title in himself to a portion of the land aforesaid, by his statements, and those of his agents and attorneys in the matter before stated; and further to perform such order as the said court shall make in this behalf. And herein fail not, and make due return of this writ, certifying how you have executed the same.

Witness the Hon. John C. Watrous, judge of said court, and the seal of said court, at the city of Galveston, this twenty-fifth day of February, in the year of our Lord one thousand eight hundred and fifty-four, and of the independence of the United States the seventy-eighth year.

JAMES LOVE, *Clerk.*

And thereupon, to wit: on the same day and year, is the return of the marshal upon said writ of attachment; and which said return is in the words, and of the tenor following, to wit:

MARSHAL'S RETURN.

Received February 25, 1854; and having made diligent inquiry, I find that Jacob Mussina is, and has been for many years past, a resident of the city of New Orleans, State of Louisiana; and is not at present, nor has been within my district. I, therefore, return this writ not executed, he being not found in my district.

BEN. McCULLOCH,

United States Marshal.

By E. T. AUSTIN, *Deputy.*

GALVESTON, *February 27, 1854.*

And afterwards, to wit: on the twenty-eighth day of February, of the same year, came the complainants, by their attorneys, and filed their motion in this cause; which is in the words following, to wit:

MOTION.

DISTRICT COURT OF THE UNITED STATES,
District of Texas, at Galveston.

MARIA JOSEFA CAVAZOS and ESTAFANA GOSEASCOCHEA DE CORTINA, surviving complainants,	} In chancery.
<i>vs.</i>	
CHARLES STILLMAN and others, def'ts.	}

The said complainants, by their counsel, referring to the return of the marshal made to the writ of attachment lately issued against Jacob Mussina, move the court to order that a writ of sequestration, in due form, at once issue, directed to commissioners to be named by the court, empowering and directing them, or any one of them, to enter upon all the messuages, lands, tenements, and real estate of the said Jacob Mussina, and to collect, receive, and sequester, not only the rents and profits of his said real estate, but also all his goods, chattels, and personal estate, and deliver and keep the same under sequestration in their hands until the said Jacob Mussina shall clear his contempt, and this court make other order to the contrary; and the said complainants suggest as proper persons to be appointed commissioners in the said writ, Israel B. Bigelow and E. D. Koltman, of the county of Cameron, and William S. Webb, of the county of Fayette, in this State.

ALLEN & HALE,
Counsel for Complainants.

FEBRUARY 28, 1854.

And afterwards, to wit: on the tenth day of March of the same year, the court here made an order in this cause, which is as follows, to wit:

ORDER.

MARIA JOSEFA CAVAZOS <i>et al.</i>	}
<i>vs.</i>	
CHARLES STILLMAN <i>et al.</i>	

On this day came on to be heard the motion of complainants on the 23d day of February ultimo, for leave to withdraw the original documents and copies on file in this cause, and making part of their proof for the purpose of using said documents and copies as evidence in other causes. The court being now sufficiently advised, it is ordered that plaintiff have leave to withdraw the papers asked for in the motion, upon leaving copies of the same in the office to be certified by the clerk.

And afterwards, to wit: on the 16th day of March of the same year, the court here made an order, which is in the words, and of the tenor following, to wit:

ORDER.

MARIA JOSEFA CAVAZOS and another, }
 vs. }
 CHARLES STILLMAN and others. }

The motion of the complainants in the above entitled cause for a writ of sequestration against Jacob Mussina, one of the defendants, filed on the 28th day of February, 1854, having been heard at a former day of this term, and the court having then taken time to consider the same, and being now fully advised, and it appearing to the court that the writ of attachment heretofore issued has been returned not found—it is now ordered by the court that a commission or writ of sequestration, in due form, at once issue to Israel B. Bigelow and E. D. Koffman, of the county of Cameron, and William G. Webb, of the county of Fayette, in this State and district, as commissioners, empowering and directing them, or any of them, to enter upon the messuages, land, tenements, and real estate of the said Jacob Mussina, and collect, receive, and sequester, not only the rents and profits of his real estate, but also all his goods, chattles, and personal estate, and to detain and keep the same under sequestration in their hands until the said Jacob Mussina shall clear his contempt, and this court make other order to the contrary.

And afterwards, to wit: On the 23d day of March, of the same year, a writ of sequestration was issued from the clerk's office of our said court, in the following words:

UNITED STATES OF AMERICA, } *to wit:*
 District of Texas. }

The President of the United States of America to Israel B. Bigelow and E. D. Kottman, of the county of Cameron, and State of Texas, and William E. Webb, of the county of Fayette, and State aforesaid, greeting:

Whereas, an order was lately made by the district court of the United States for the district of Texas, sitting at Galveston, at the term thereby held on the first Monday of January, in the year of our Lord one thousand eight hundred and fifty-four, directing a writ of attachment to issue against Jacob Mussina for his contempt committed in a breach of the injunction granted by the final decree rendered at a former term of the said court, in a certain cause therein depending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Goseascochea de Cortina, were complainants, and Charles Stillman, Samuel A. Belden, the said Jacob Mussina, Richard Fitzpatrick, W. W. Chapman, Maria Angela (or de los Angeles) Garcia Lafon de Tarnava, Ramon Lafon, Feliciano de Tijerina, and José Manuel Prieto, were defendants; and whereas the said writ of attachment has been returned, and it appears by the return thereof that the said Jacob Mussina cannot be found; and whereas the sur-

viving complainants in the cause above mentioned have thereupon moved for the issuance of the writ of sequestration, according to the practice of the said court :

Know ye, therefore, that we, in confidence of your prudence and fidelity, have given, and by these presents do give, unto you, any two or one of you, full power and authority to enter upon all the messuages, lands, tenements, and real estate whatsoever of the said Jacob Mussina, and to collect, receive, and sequester into your hands, not only all the rents and profits of his said messuages, lands, tenements, and real estate, but also all his goods, chattels, and personal estate whatsoever. And therefore we command you, or any two or one of you, that you do, at certain proper or convenient days and hours, go to and enter upon all the messuages, lands, tenements, and real estate of the said Jacob Mussina, and that you do collect, take, and get into your hands not only the rents and profits of his said real estate, but also all his goods, chattels, and personal estate, and detain and keep the same under sequestration in your hands until the said Jacob Mussina shall clear his contempt, and our said court make other order to the contrary.

Witness the honorable John C. Watrous, judge of said court, and the seal of said court, the 23d day of March, A. D. 1854, [SEAL.] and the 78th year of the independence of the United States of America.

JAMES LOVE, *Clerk.*

DISTRICT COURT OF THE UNITED STATES, }
District of Texas, at Galveston. }

I, James Love, clerk of the United States district court for the district of Texas, at Galveston, hereby certify the foregoing to be a true copy of the writ and commission of sequestration, issued on the 23d day of March, A. D. 1854.

Witness my hand and seal of said court, at my office, in Galveston, [SEAL.] this 23d day of March, A. D. 1854.

JAMES LOVE, *Clerk.*

The following are the endorsements on the back of said writ of sequestration :

MARIA JOSEFA CAVAZOS *et al.*, }
vs. }
 CHARLES STILLMAN, *et al.* }

Commission of sequestration issued March 23, 1854.

JAMES LOVE, *Clerk.*

Came to hand March 31, 1854; returned January 1, 1855. No property of Jacob Mussina, of any character whatever, found; nor do I know of any in the State of Texas.

WILLIAM WEBB, *Commissioner.*

RAFAEL GARCIA CAVAZOS and others,	}	The United States of America, United States district court, district of Texas, at Galves- ton.— <i>Chancery</i> , 41.
<i>vs.</i>		
CHARLES STILLMAN and others.		

I, James Love, clerk of the district court of the United States for the district of Texas, sitting in Galveston, certify that the foregoing two hundred and thirty-one pages, from one to two hundred and thirty-one, inclusive, contain a true and perfect transcript of the final decree rendered in the above entitled cause, on the fifteenth day of January, in the year of our Lord one thousand eight hundred and fifty-two, in our said court, and of all the proceedings had subsequent thereto on the attachment issued against Jacob Mussina for contempt of the provisions of the decree aforesaid.

In testimony whereof, I hereunto set my hand and affix the seal of said court. Done at the city of Galveston, this twenty-eighth [L. s.] day of November, in the year of our Lord one thousand eight hundred and fifty-five, and the eightieth year of the independence of the United States of America.

JAMES LOVE,
Clerk U. S. D. C.

THE UNITED STATES OF AMERICA, *District of Texas*:

I, John C. Watrous, sole judge of the district court of the United States for the district of Texas, certify that the foregoing certificate and attestation of James Love, clerk of said court, at Galveston, are in due form of law.

JOHN C. WATROUS,
U. S. Judge D. T.

DECEMBER 1, 1855.

UNITED STATES DISTRICT COURT, *District of Texas*:

I, James Love, clerk of the district court of the United States for the district of Texas, sitting at Galveston, do hereby certify that John C. Watrous, whose signature appears to the above certificate, is now, and was at the time of signing the same, sole judge of said United States district court for the district of Texas; that his said signature to the said certificate is genuine, and in his own proper handwriting, and that he is duly commissioned and qualified as judge of said court aforesaid, and that this said court is a court of record.

In testimony whereof, I hereunto set my hand and affix the seal of [L. s.] said court. Done at Galveston, this 6th day of December, A. D. 1855.

JAMES LOVE,
Clerk U. S. D. C. D. T.

SUPREME COURT OF THE UNITED STATES.

No. 55.

ELIPHAS SPENCER, PLAINTIFF IN ERROR,

vs.

JOHN W. LAPSLEY.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN
DISTRICT OF LOUISIANA.

THE UNITED STATES OF AMERICA, *Eastern district of Louisiana.*

Circuit court of the United States in and for the fifth judicial circuit
and the eastern district of Louisiana, holding sessions in the city of
New Orleans.

NEW ORLEANS, *Saturday, April 14, 1855.*

Court met pursuant to adjournment. Present—Hon. Theodore H.
McCaleb, district judge; absent, Hon. J. A. Campbell, presiding
judge.

JOHN W. LAPSLEY

vs.

ELIPHAS SPENCER.

} No. 2452. November term, 1854.

On motion of Robert Hughes, esq., of counsel for the plaintiff
herein, and on presenting in court the transcript of the record of this
cause, remitted to this court for trial, from the district court of the
United States for the district of Texas, because of the judge of that
court having excused himself on the ground of being interested
therein, it is ordered that the same be filed and docketed.

Which said transcript is in the words and figures following, viz :

THE UNITED STATES OF AMERICA, }
District of Texas, to wit : } District court, April term, 1851.

PETITION.

*To the honorable John C. Watrous, judge of the district court for the
district aforesaid.*

The petition of John W. Lapsley, a citizen of the State of Alabama,
plaintiff, against Eliphas Spencer, a citizen of the State of Texas,
residing in the county of McClellan, defendant.

And thereupon, your petitioner sets forth and complains, that here-
tofore, to wit : on the first day of December, A. D. 1850, at, to wit :
in the district aforesaid, he was seized in his demesne as of fee, of,

in, and to a certain tract or parcel of land, situate, lying, and being in the county of McClellan and State of Texas, in the district aforesaid, on the left margin of the river Brazos, at the old village of Tahucanos, above and adjoining three leagues of land granted to José Antonio Manchacca: Beginning at a stake on the river, said Manchacca's upper corner, from which bears north seventy-five degrees west, twelve and six-tenths varas, a box-elder eight inches in diameter, and north fifty-eight degrees west, eleven and eight-tenths varas, another box-elder six inches in diameter; thence north sixty-two degrees east, seventeen thousand and ninety-three varas to a stake in the upper line of said Manchacca; thence north twenty-eight degrees west, fourteen thousand and one hundred and eighty varas to a stake; thence south sixty-two degrees west, twenty-two thousand nine hundred and fifty-three varas to the river Brazos, a stake opposite to the mouth of the river Basque, from which stake bears south nine degrees east two varas, a poplar six inches in diameter, and north five and one-half degrees east nine varas, another poplar eighteen inches in diameter; thence down the river with the meanders thereof to the place of beginning; containing eleven leagues, be the same more or less, with the hereditaments and appurtenances thereunto belonging, or in anywise appertaining. And being so then and there seized and possessed of the same, the defendant afterwards, to wit: on the day and year last aforesaid, at the district aforesaid, with force and arms entered in and upon and took possession of the tract or parcel of land, with the hereditaments and appurtenances as aforesaid, and then and there ejected, expelled, put out, and annoyed your petitioner from the same; and continued him so ejected, put out, expelled, and annoyed for a long space of time, to wit: from thence hitherto; and other wrongs then and there did to the great injury of your petitioner; wherefore, he says he is injured and damaged to the value of \$10,000, and therefore he brings a writ, &c.

The premises considered, your petitioner prays that process of citation be issued to the marshal of the district aforesaid, commanding him to summon said defendant to be and appear in the honorable court on the first Monday in the month of April next, then and there to answer this petition; that after due trial, according to the forms of law, your petitioner may have judgment for his damages as aforesaid, for the recovery of the tract or parcel of land with the hereditaments and appurtenances aforesaid, with writ of possession and other execution, or that such other judgment be rendered in the premises as the nature of the case may require; and as in duty bound he will ever pray, &c.

ROB. HUGHES,
For Plaintiff.

Endorsed: L, 352, 68—U. S. district court, district of Texas, March term, 1851—John W. Lapsley *vs.* Eliphas Spencer—Petition for trespass—Filed 11 Jan., 1851—James Love, clerk—Filed November 19, 1853—W. P. De Nomaudie, clerk.

Summons.

UNITED STATES DISTRICT COURT, *District of Texas.*

The President of the United States of America to the marshal, or any of his lawful deputies, of the district of Texas, greeting :

You are hereby commanded to summon Eliphas Spencer, if he be found in your district, to be and appear before the honorable the district court of the United States, at a court to be holden in and for the district of Texas, at the city of Galveston, in the first Monday of April next, to answer the petition and complaint of John W. Lapsley, against Eliphas Spencer, in an action of trespass to try title, and to plaintiff's damage ten thousand dollars, of which you will serve the said defendant, Eliphas Spencer, with the accompanying copy of said petition.

Witness the honorable John C. Watrous, judge of said court, and [L. S.] the seal of said court, at the city of Galveston, this thirteenth day of January, A. D. 1851, and the seventy-fifth year of the independence of the United States of America.

JAMES LOVE, *Clerk.*

Endorsed—L, 352, No. 68, United States district court ; John W. Lapsley *vs.* Eliphas Spencer ; summons for Eliphas Spencer is issued 13th January, 1851 ; filed November 19, 1853 ; received January 15, 1851, and executed on the 18th day of February, A. D. 1851, by service of the within suit on the defendant, and by delivering to him a true copy thereof, together with a certified copy of the plaintiff's petition finished by the clerk. Joseph Bates, United States marshal, by A. M. Hughes, deputy marshal.

Answer.

THE UNITED STATES OF AMERICA, *District of Texas :*

JOHN W. LAPSLEY	}	In United States district court, May term, 1851.
<i>vs.</i>		
ELIPHAS SPENCER,		

And now comes the said Eliphas Spencer, and defendant in the above entitled , and demurs to the petition of plaintiff herein, and says that the said petition is wholly insufficient in law for the plaintiff to have or maintain his aforesaid action against this defendant, and for special causes of demurrer the said defendant here sets down and shows to the court the following :

First. That no sufficient description of the premises sued for is made, given, or set forth in or by said petition.

Second. That there is no positive and sufficient allegation (or allegations) of the citizenship of the parties, either plaintiff or defendant, to give said court jurisdiction.

Third. For that it does not appear in and by said petition, or from any part thereof, that the endorsement required by the laws of the land, nor made as required by said law.

And the said defendant says, for further answer in this behalf, that he denies all and singular the allegations in plaintiff's petition contained, wherefore, &c.

And for further answer, defendant denies that he has committed any trespasses or wrongs in manner and form as alleged in plaintiff's petition, and says he is not guilty.

SWETT & HOWARD,
Attorneys for defendant.

And for further answer in this behalf the defendant says, that he is the owner in fee simple of nineteen hundred and twenty acres of land on which he now lives, and that he has been the owner of all said tract of nineteen hundred and twenty acres of land, was seized and possessed thereof, and every part thereof, from and ever since the twenty-fifth day of November, A. D. 1847; and has claimed, possessed, held, owned, and enjoyed the same in his own right against the claim and claims of any and all persons whatsoever, since said twenty-fifth day of November, 1847.

SWETT & HOWARD,
For the defendant.

And for further answer defendant says, that he has made large and valuable improvements on said tract of land on which he now resides, and has so lived and resided since the 25th of November, 1847; that said land was then vacant and unappropriated public domain; that this defendant located upon said land in good faith, and from said 25th day of November, 1847, to the time of commencing this suit, he made large, expensive, and very valuable improvements on said land, by clearing said land, cultivating the same, and enclosing said land, or about one hundred acres thereof, with good substantial fences, and by erecting substantial dwelling-houses and other buildings thereon. Wherefore he prays judgment for said land, and for the value of said improvements, which defendant alleges to be of the value of five thousand dollars.

SWETT & HOWARD,
Attorneys for defendant.

And for further answer defendant says, that the original pretended grant, under which plaintiff claims to hold said land described in plaintiff's petition, was fraudulent and void, and that none of the conditions attached to or annexed to the said pretended grant, under which plaintiff claims to hold said land, were ever complied with or performed by the original pretended granted thereof.

SWETT & HOWARD,
Attorneys for defendant.

And for further answer in this behalf defendant says, that the pretended title of plaintiff *has* derived by and through a pretended grant

of eleven leagues of land, commonly known and called an eleven-league grant; and all suit or action, or actions thereon, have long since been barred by the law of the land of the late republic, and now State of Texas.

SWETT & HOWARD,
Attorneys for defendant.

Endorsed—L. 352, No. 68, John W. Lapsley *vs.* Eliphas Spencer. Answer; filed May 12, 1851, James Love, clerk; filed November 19, 1853, W. P. De Nommaudie, clerk.

Transcript of proceedings at Galveston.

JOHN W. LAPSLEY }
 vs. } In the district court of the United States.
ELIPHAS SPENCER. }

THE UNITED STATES OF AMERICA, *District of Texas, to wit:*

At a district court of the United States, having and exercising the powers and the jurisdiction of a circuit court of the same for the district of Texas, begun and held at the city of Galveston on the first Monday in April, in the year of our Lord one thousand eight hundred and fifty-one. Present, the honorable John C. Watrous, judge of the said district; William P. Ballinger, esq., attorney; Joseph Bates, esq., marshal, and James Love, esq., clerk; among others were the following proceedings, to wit:

JOHN W. LAPSLEY }
 vs. } Trespass.
ELIPHAS SPENCER. }

Be it remembered, that heretofore, to wit: on the fourteenth day of April, in the year of our Lord one thousand eight hundred and fifty-one, the above entitled cause was continued. And afterwards at the May term of said court, to wit: on the fourteenth day of July, in the year of our Lord one thousand eight hundred and fifty-one, this cause was continued.

DISTRICT COURT OF THE UNITED STATES, *District of Texas.*

JOHN W. LAPSLEY }
 vs. } No. 352.
ELIPHAS SPENCER. }

I, James Love, clerk of the district court of the United States for the district of Texas, certify that the annexed is a true and correct transcript of all the proceedings had in the above entitled cause.

In testimony whereof, I have hereunto set my hand and affixed
[L. s.] the seal of said court, to wit: this the 21st day of October,
A. D. 1851.

JAMES LOVE, *Clerk.*

Endorsed: No. 68—John W. Lapsley *vs.* Eliphas Spencer—transcript of proceedings held at the town of Galveston, in the State of Texas. Filed November 19, in the year of our Lord one thousand eight hundred and fifty-three.

W. P. DE NOMMANDIE, *Clerk.*

IN THE DISTRICT COURT OF THE UNITED STATES,
For the district of Texas.

JOHN W. LAPSLEY, plaintiff.	}	No. 68. Austin, Nov. term, 1853.
<i>vs.</i>		
ELIPHAS SPENCER, defendant.		

November 24, 1853.—And now on this day come the parties by their attorneys, and by agreement this case is continued until the next term of this court.

Order.

IN THE DISTRICT COURT OF THE UNITED STATES,
For the district of Texas.

JOHN W. LAPSLEY, plaintiff,	}	No. 68. Austin, Nov. term, 1854.
<i>vs.</i>		
ELIPHAS SPENCER, defendant.		

December 9, 1854.—This day came the plaintiff aforesaid by his attorney, and on motion of said plaintiff by his attorney, the judge now presiding states and enters upon the record that he has an interest with the plaintiff in the land in controversy in this suit, which in his opinion renders it improper for him to sit in the trial of the same; and thereupon the court upon further motion orders, because there is no circuit court of the United States in this State, that an authenticated copy of this order, and of all the record and proceedings in this action, be forthwith certified to the circuit court of the United States for the eastern district of the State of Louisiana, at New Orleans, that court being the most convenient of the United States circuit courts in adjoining States.

DISTRICT COURT OF THE UNITED STATES, *District of Texas.*

I, William P. de Nomandie, clerk of the district court of the United States for the district of Texas, at Austin, hereby certify, that the foregoing eighteen pages contain a true and perfect copy of all the original papers and proceedings in this court, in the cause wherein John W. Lapsley is plaintiff, and Eliphas Spencer is defendant.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at the city of Austin, this ninth day of February, A. D. 1855, and of the independence of the United States the 79th year.

W. P. DE NOMMANDIE, *Clerk.*

April Term, A. D. 1856.

NEW ORLEANS, *Monday, April 28, 1856.*

Present, Hon. Theodore H. McCaleb, district judge ; absent, Hon. J. A. Campbell, presiding judge.

Motion to dismiss cause.

JOHN W. LAPSLEY }
 vs. }
 ELIPHAS SPENCER. } No. 2,452.

The defendant herein this day moved the court, by his counsel, Messrs. Wolfe & Singleton and Lewis & Herring, to dismiss this case for the reasons following :

1st. Because the record shows that the Hon. John C. Watrous, judge of the federal court within and for the State of Texas, before whom this suit was instituted, has an interest with the plaintiff, Lapsley, in the land in controversy in this suit.

2d. Said interest disqualified said Watrous from entertaining any motion, or making any order in this case.

3d. All orders herein made by said Watrous are *ipso facto* void.

4th. This court has not jurisdiction of the parties or subject-matter in controversy in this suit.

Amended Answer.—Filed April 28, 1856.

JOHN LAPSLEY }
 vs. }
 ELIPHAS SPENCER. } No. 2,452.

And now comes the said defendant, by his attorneys, (leave of the court first had and obtained,) and amending his answer herein heretofore filed, says :

The grant under which the said plaintiff claims is and was, *ab initio*, null and void, by reason of the fraud and illegality in the issuance of the same, in this :

First. The agent, Williams, who obtained the concession, was *empresario* at the time, and could not represent the government and private citizens applying for concessions in Austin and Williams' Colony.

Second. The consent of Austin was not obtained ; the location of said grant in his colony was fraudulent and illegal.

Third. The consent of both Austin and Williams was necessary to the validity of any and all grants in their colony exceeding one league. Williams had no authority to act for Austin, and no authority could have been delegated to him by said Austin in such case.

Fourth. The title to said grant was not legally extended by officers designated by law for that purpose, and the fee to said land never passed out of the government.

Fifth. Said land was not actually surveyed in consummation of this grant. The person who was ordered to make said survey does not return it over his official signature. Francis W. Johnson, who purports to have made this survey, did not, in fact, make this survey, or any other in that region of country. It does not appear that a surveyor, markers, and chain-carriers, or either, were designated and sworn, as required by law in such cases. And defendant* [further says, that the apparent legal title to the land in controversy was fraudulently conferred upon and vested in said plaintiff by collusion between said plaintiff and the Hon. John C. Watrous, Thomas M. League, and Thomas J. Frow, in order to litigate and establish said fraudulent grant before the federal court of Texas, presided over by the said Hon. John C. Watrous. And defendant avers, that said Watrous and League, citizens of the said State of Texas, and said Frow, a citizen of Alabama, are equally interested, and are the only real parties in interest in said fraudulent grant.]

Wherefore, defendant prays that said plaintiff's petition be dismissed at his cost, and for general relief.

WOLFE & SINGLETON,
LEWIS & HERRING,
Attorneys for Defendant.

April Term, A. D. 1856.

NEW ORLEANS, *Thursday, May 1, 1856.*

Present, Hon. Theodore H. McCaleb, district judge; absent, Hon. J. A. Campbell, presiding judge.

Judgment on motion to dismiss cause.

JOHN W. LAPSLEY }
vs. } 2,452.
ELIPHAS SPENCER. }

The motion herein made on the 28th ultimo to dismiss this cause for the reasons assigned, came on this day to be heard, and was argued by Messrs. Singleton and Herring for the plaintiff in motion, and by Robert Hughes, esq., for the defendant; and the court having considered the same, ordered that said motion be overruled.

April Term, 1856.

NEW ORLEANS, *Thursday, May 1, 1856.*

Present, Hon. Theodore H. McCaleb, district judge; absent, Hon. J. A. Campbell, presiding judge.

* This stricken out by order of court of date 1st May, 1856.

Motion to strike out plea and order thereon.

JOHN W. LAPSLEY }
 vs. } 2,452.
 ELIPHAS SPENCER. }

The plaintiff herein, by his counsel, Rob. Hughes, esq., moved the court to strike out the last plea in the amended answer filed by the defendants herein, on the ground that the defence thereon made is a plea in abatement, and the defendant having previously pleaded in bar ; whereupon, after argument of counsel, it was ordered that the said plea be stricken out.

April Term, 1856.

NEW ORLEANS, *Tuesday, May 13, 1856.*

Present : Honorable Theodore H. McCaleb, district judge ; absent, Honorable J. A. Campbell, presiding judge.

Motion for leave to file amended answer and order thereon.

JOHN W. LAPSLEY }
 vs. } 2,452.
 ELIPHAS SPENCER. }

Marcus D. Herring, esq., of counsel for the defendant, moved the court for leave to file an amended answer, or plea in abatement in this cause, which application was resisted by Rob. Hughes, esq., on part of the plaintiff ; when, after argument of counsel, it was ordered that the application be refused, and leave denied.

Defendant's bill of exceptions to the refusal of the court to allow amended answer or plea in abatement.

Be it remembered, that in the above entitled case, on the 13th day of May, A. D. 1856, the said defendant, by his attorneys, offered to amend his pleadings herein by a plea in abatement, supported by the affidavit of said defendant, and propounding interrogatories to the said plaintiff, numbering from one to thirty-one, inclusive, all of which will appear by said plea, affidavits, and interrogatories, which are hereto annexed, and made a part of this bill of exceptions ; which said plea in abatement was rejected by order of the court, and the said defendant was not allowed the benefit of said plea, and the answers of said plaintiff to said interrogatories ; to which ruling of the court the said defendant by his counsel excepted, and tendered this his bill of exceptions for the signature of the court, in order that the same might be properly certified to the Supreme Court of the United States. This bill of exceptions is allowed, but without passing any opinion whether it is a proper subject for exceptions.

THEO. H. McCALEB,
United States Judge.

Plea in abatement annexed to the foregoing bill of exceptions offered for filing by defendant's attorney, 13th May, 1856, and leave refused.

In the circuit court of the United States for the eastern district of Louisiana.—April term, A. D. 1856.

JOHN W. LAPSLEY }
 vs. }
 ELIPHAS SPENCER. }

And now comes the said defendant, and amending his original and amended answers hereto filed, herein says that said plaintiff ought not further to have and maintain his said action, because he says that said plaintiff is the only legal or nominal holder or owner of the grant of land claimed by him, said plaintiff, in his petition ; and defendant further says that this court hath not jurisdiction of this cause or suit, for the reason following, to wit :

The apparent legal title to the land in controversy was fraudulently conferred upon and vested in said plaintiff by collusion between said plaintiff and the honorable John C. Watrous, Thomas M. League, and Thomas J. Frow, in order to litigate and establish said fraudulent grant before the federal court of Texas, presided over by the said honorable John C. Watrous ; and defendant avers that said Watrous and League, citizens of the State of Texas, and said Frow, a citizen of Alabama, are equally interested, and were the parties in interest in said fraudulent grant, and were the parties in interest at the time of the pretended transfer of said grant to said Lapsley, and said parties were domiciliated as aforesaid at the time of the institution of this cause or suit in the said federal court of Texas.

All of which this defendant is ready to verify ; and offering to verify, puts himself upon the country, and prays judgment, &c.

SINGLETON & HERRING,
For defendant.

I, Eliphas Spencer, defendant in the cause or suit aforementioned, do solemnly swear that the facts and allegations set forth in the above and foregoing plea are true, to the best of my knowledge and belief ; and I do further swear, that the answers of said plaintiff to the annexed interrogatories propounded to him are material to sustain said plea, and to aid me in my defence thereof ; and that I know of no other person in this State by whom I can substantiate said plea.

E. SPENCER.

Sworn to and subscribed before me this 13th May, 1856.

J. W. GURLEY, *Clerk.*

And the said Eliphas Spencer further swears that he did not know, nor had he any means of ascertaining, the fraudulent combination mentioned in the aforesaid plea ; nor did affiant know of the facts set

forth in the said plea, until long after he filed his plea to the merits or the general issue in this cause or suit; and affiant swears that he did not make said plea when he plead the general issue, because he was not aware of the facts contained in said plea at that time.

E. SPENCER.

Sworn to and subscribed before me in open court, this 13th May, 1856.

J. W. GURLEY, *Clerk*.

Sworn to and subscribed before me this 13th May, 1856, as amended.

J. W. GURLEY, *Clerk*.

Interrogatory 1. Do you own the entire interest, legal and equitable, in and to the land in controversy in this suit? if nay, state what other person or persons have an interest with you, and where they reside?

Interrogatory 2. If there are other owners, what is their interest, the price paid or to be paid by each? Who was present when League transferred said land to you, and where was said transfer made?

Interrogatory 3. What consideration, if any, did you actually pay for said land; and to whom, where, and when did you make such payment?

Interrogatory 4. Do you own any real, unconditional interest in said land? If yea, state what interest, the price you paid for it, or agreed to pay, and the person or persons with whom you contracted?

Interrogatory 5. State where, how, and through whom you first heard of the grant of land in controversy?

Interrogatory 6. Did you not receive your first knowledge of this grant from the Hon. John C. Watrous, or through his agency?

Interrogatory 7. When and where did you first become acquainted with Thomas M. League?

Interrogatory 8. Did not your acquaintance with said League commence in your negotiation with him about the land in controversy, or about that time?

Interrogatory 9. When and where did you first know or become acquainted with the Hon. John C. Watrous?

Interrogatory 10. Are you in any way related to said Watrous? Have not your relations with the said Watrous been of an intimate and confidential character?

Interrogatory 11. Did not the Hon. John C. Watrous advise you to become the purchaser of the land in controversy?

Interrogatory 12. Did not said Watrous converse with you about said land, the nature and validity of the title, and the character of the soil, prior to the date of your deed thereto? If yea, state the substance of what he said to you about said land, and state fully and particularly all he said about the title to said land.

Interrogatory 13. Was not the fact that John C. Watrous was, or

was to be, a party in interest with you in said *law* the chief inducement, or an inducement or moving cause, of your becoming interested therein ; and have you not so stated, or words to that substance ?

Interrogatory 14. Do you not know, or do you not believe, that if said Watrous had not been, or was not to have been, a party in interest with you in said land, that you would not have had any connexion with said land as the vendee thereof from said League ? Have you not so stated, or words to that substance ?

Interrogatory 15. Previous to your negotiation for said land, did you have any knowledge of the history, character, and validity of eleven league grants of land in Texas ? If yea, state fully the source and means of information.

Interrogatory 16. Did not said Watrous execute a mortgage upon land in Robertson county, Texas, or at any other place, to Frow or any other person to secure the sum of \$2,000, or any other sum, as the whole or part consideration for his interest in the grant of land in controversy in this suit ? If yea, state if said mortgage deed was recorded, the value of said land in Robertson county, (if you know it,) and if said sum has been paid off and discharged by said Watrous, and fully ; how, where, when, and to whom paid ?

Interrogatory 17. At the time of your purchase or transfer of the La Vega eleven league grant, or pending your negotiations therefor, were you uninformed by said Watrous, League, Frow, or any one else, that the object or reason for, or an object or reason for, your becoming the sole legal owner thereof, was to bring suit, and test or try the title of said land in the federal court of Texas ?

Interrogatory 18. Was it not discussed, or agreed, or understood by and between you, said Watrous, League, and Frow, or either or any of you, or any one else for them or any one of them, that you should become the recipient of the legal title to said land, in order to litigate it before his honor Judge John C. Watrous ?

Interrogatory 19. Since the transfer of said grant of land to you by said League, have you had any communication with the Hon. John C. Watrous respecting the litigation for said land, or about the probable result of any suit or suits for the trial of the title thereto ? If yea, state fully the import of such communication, when and where had ?

Interrogatory 20. Do you not know or believe that since the institution of this suit the Hon. John C. Watrous has advised or suggested to some one or more of the defendants or settlers in said land to purchase their quiet, or compromise with yourself or Thomas M. League, or with any one else owning an interest with you in said land ?

Interrogatory 21. Since the transfer of said grant of land to you, has not Thomas M. League had the chief control and management of the same ? has he not been the principal actor and actual manager in the institution and prosecution of this and all other suits instituted in your name for said land ?

Interrogatory 22. After the transfer of said land to you, did not the control and management of said League over and upon the same

continue about the same and to the same extent as it was before said transfer?

Interrogatory 23. Was it not at any time understood and agreed by any or all the parties concerned or in interest with you that the interest of the Hon. John C. Watrous in the land in controversy should not be disclosed?

Interrogatory 24. Was not said Watrous, according to your knowledge or belief, in embarrassed pecuniary circumstances at the time of the transfer of said grant of land to you?

Interrogatory 25. What interest has Robert Hughes, esq., present or prospective, or any person or persons for him or with him, in the grant of land in controversy or in the proceeds thereof? if any, state what that interest is, and upon what dependent.

Interrogatory 26. Has Sophia St. Johns or Samuel M. Williams, or either of them, or any person for them or either of them, any interest, or reserved interest, in said grant of land or in the proceeds thereof? if yea, state the character of such interest.

Interrogatory 27. Is there not or has there not been some agreement or understanding between you and said Frow, or Watrous, or League, that in the event of your gaining said grant of land you were to convey to said parties, or either of them, some part of said land, or to divide the proceeds thereof with said parties, or either of them? if yea, state fully such agreement or understanding, the time when and the place where made; if evidenced by writing, state, if you know, in whose possession such writing is; and if you have said writing, attach the original or a true copy to your answer to this interrogatory.

Interrogatory 28. Did you not in the year 1851 or 1852, or at any other time, receive a proposition from a Mr. Evans, of McLennun county, Texas, or from any other person, or a proposition to buy a part of said grant of land? and, in answer to said proposition, did you not say in substance that you were only the legal owner of said land; that there were several other parties in interest with you, some of whom reside in Texas; that you would have to confer with said parties before you could give a definite answer to said proposition?

Interrogatory 29. Did you not, during the year 1853 or 1854, write a letter to Mr. Bidwell, of Texas, or any other person, wherein you substantially stated that Thomas M. League was a part owner of said land, and that whatever he (said League) should do in selling said land, or in compromising the suits therefor, would be satisfactory to you?

Interrogatory 30. Do you not know or believe, or have you not information, that Thomas M. League has conveyed, or obligated himself to convey, all his interest in the land in controversy in the suit of some person or persons? if any, state when and where said conveyance or agreement to convey was made, and the consideration paid or promise to be paid.

Interrogatory 31. Do you not know or believe, or have you not information, that it was agreed, or that it was the subject of conversation by or between the parties interested with the plaintiff in the land

in controversy, that the said Thomas M. League should convey or relinquish his legal and equitable interest, or either, in the land in controversy, in order to qualify, or apparently qualify, himself (the said League) to become a witness for the plaintiff in this suit?

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE FIFTH CIRCUIT
AND EASTERN DISTRICT OF LOUISIANA—SPRING TERM, A. D. 1856.

JOHN W. LAPSLEY }
vs. }
ELIPHAS SPENCER. }

Affidavit and plea of non est factum.

Eliphas Spencer, sworn in open court, says that the decree purporting and alleged to be the act of the most excellent señor governor, granting in sale eleven leagues each to José Maria de Aguirre, Rafael de Aguirre, and Tomas de la Vega, alleged by Santiago del Valle, secretary, in the following words, to wit:

A copy of its original, which exists in the archives of this office, in my charge, to which I refer, from where this copy was ordered to be taken by disposition of his excellency the governor, Leona Vicario, June 13, 1830, is not the act of his excellency the governor, nor was it done or executed by his order or authorization; but affiant believes that the same was executed long after the date of said attestation by Santiago del Valle, by and through the agency and contrivance of Samuel W. Williams, and, being so executed, was a fraud upon the government and a nullity. Affiant further swears that the decree dated Leona Vicario, May 2, 1832, and signed "Lelona," "Santiago dell Valle, Secretary," is not the official act of the then governor of the State of Coahuila and Texas, nor was it done or executed by his order or authorization, but the affiant believes that the same was fraudulently executed in October, 1833, by or through the agency or contrivance of said Samuel M. Williams.

Affiant further swears that the survey of the grant of land claimed by plaintiff, signed "F. W. Johnson," without date, and purporting to be made in pursuance to the order or decree of "Lessassier," dated October 3, 1833, addressed to the principal and scientific surveyor, Francis W. Johnson, was not made by said Johnson at all, nor was said survey made by any legally authorized surveyor in pursuance of said order or decree of Lessassier, but the same was a forgery and a fraud upon the government.

And affiant further swears that the power of attorney by virtue of which Samuel M. Williams sold the grant of land claimed by plaintiff, which said power is referred to, and attempted to be proven by the deposition of James Hewitson, was never, in fact, executed by Tomas de la Vega, the alleged grantee of said land, nor was said power of attorney executed by the authorization or with the knowledge and consent of Tomas de la Vega.

E. SPENCER.

Sworn to and subscribed before me this 13th May, 1856.

J. W. GURLEY, *Clerk.*

Filed in open court, with leave thereof, and in presence of counsel,
13th May, 1856.

J. W. GURLEY, *Clerk.*

Notice of filing title papers.

THE UNITED STATES OF AMERICA, }
Eastern District of Louisiana, } *to wit:*

Circuit Court—April term, 1856.

JOHN W. LAPSLEY }
vs. } No. 2,452.
ELIPHAS SPENCER. }

Trespass to try title, &c.

The plaintiff in the above stated case, or Messrs. Herring, Walker, and Singleton, their attorneys, are hereby notified, that, in the case of Lapsley *vs.* Spencer, No. 2,452, above named, as attorney for the plaintiff, I have this day filed with the papers of said case the following deeds, to wit:

1. The deed from Thomas de la Vega, by his attorney in fact, Samuel M. Williams, to M. B. Menard and Nathaniel F. Williams, in trust for the benefit of Sophia J. St. John, dated first day of May, 1840; and,

2d. On the same sheet of paper with the last, a relinquishment or release by said Thomas de la Vega, by his attorney in fact, Samuel M. Williams, to the said Sophia J. St. John, dated 1st July, 1850.

3d. A deed from M. B. Menard and Nathaniel F. Williams, to Thomas M. League, dated 1st July, 1850.

4th. A deed from Thomas M. League to John W. Lapsley, dated 1st July, 1850.

5th. A deed of relinquishment and release from Sophia J. St. John to said Thomas M. League, dated 8th day of July, 1850.

Which deeds, upon the certificates of probate and recording thereof, will be offered as evidence in behalf of the plaintiff on the trial of the above stated case, as recorded instruments.

Your obedient servant,

ROB. HUGHES, *for plaintiff.*

MAY 20, 1856.

We hereby acknowledge and accept service of the above and foregoing notice, this 20th May, 1856.

HERRING & SINGLETON,
JAS. C. WALKER.

Agreed statement of facts, filed May 28, 1856.

J. W. LAPSLEY }
 vs. }
 ELIPHAS SPENCER. }

In U. S. District Court for the fifth circuit and eastern district of
 Louisiana—Spring term, A. D. 1856.

It is hereby agreed, by and between the undersigned attorneys for said plaintiff and defendant, that the following statement of facts may be admitted and read as evidence on the trial of said case, and on the trial of all the other cases pending in said court, wherein said Lapsley is plaintiff and others are defendants, involving the grant of eleven leagues of land, to wit :

That Sophia St. Johns, the assignee of said grant from Samuel M. Williams, as attorney in fact, never did reside in the republic or State of Texas; that at the time of said transfer by said Williams, said Sophia was an alien; that said Sophia St. Johns at that time was a femme covert, and that her husband was living at the time when said Sophia sold said land to Thomas M. League; that said Sophia St. Johns was the sister of said Samuel M. Williams and of Nathaniel Williams, one of the parties who held said land in trust for said Sophia. It is further agreed that Howard, of the legal firm of Swett & Howard, was living in Galveston when the deposition of Hewetson was taken by A. M. Hughes.

ROBT. HUGHES, *for plaintiff.*
 WOLFE & SINGLETON,

Of counsel for defendant.

H. D. HERRING,
Of counsel for defendants.

April term, A. D. 1856.

NEW ORLEANS, *Wednesday, May 28, 1856.*

Present, Hon. J. A. Campbell, presiding judge; present, Theo. H. McCaleb, district judge.

JOHN W. LAPSLEY }
 vs. } 2,452.
 ELIPHAS SPENCER. }

Trial of cause.

This cause came on to be heard, and the following jury were sworn and empannelled to try the same : J. W. Burbridge, Charles H. Lee, B. M. Horrell, James H. Suydam, Chester Hillard, W. H. Cook, James J. Bard, G. W. Miller, Martin Gordon, S. A. Kingsland, H. H. Bryan, and J. C. Ricks. Evidence was heard, and the cause proceeded with until 2 o'clock p. m., whereupon it was continued until to-morrow at 10 o'clock a. m.

NEW ORLEANS, *Thursday, 29th May, 1856.*

Present, Hon. J. A. Campbell, presiding judge ; present, Hon. Theo. H. McCaleb, district judge.

JOHN W. LAPSLEY }
 vs. }
 ELIPHAS SPENCER. } 2,452.

Trial of cause.

This cause was resumed before the court and jury, and both parties having closed their evidence, it was argued by Robert Hughes, esq., on part of plaintiff, and by Messrs. Singleton and Walker, on part of the defendant, and proceeded with until 2 o'clock p. m., and thereupon continued until 4½ o'clock this afternoon.

Evening session.

JOHN W. LAPSLEY }
 vs. }
 ELIPHAS SPENCER. } 2,452.

Mr. Walker, of counsel for the defendant herein, resumed his argument, and having concluded at 6 o'clock p. m., the cause was continued until to-morrow.

April term, 1856.

NEW ORLEANS, *Friday, 30th May, A. D. 1856.*

Present, Hon. J. A. Campbell, presiding judge ; present, Hon. Theo. H. McCaleb, district judge.

JOHN W. LAPSLEY }
 vs. }
 ELIPHAS SPENCER. } 2,452.

Submission and verdict.

This cause was resumed, and was argued by Messrs. Herring and Walker for defendant, and by Robert Hughes, esq., for the plaintiff; and thereupon S. A. Kingsland was appointed foreman of the jury, and after charge from the court they retired to their room to deliberate upon their verdict, and shortly thereafter they returned the following into court: "We the jury find for the plaintiff the land described in his petition, and assess the damage at one dollar. New Orleans, May 30, 1856. S. A. Kingsland, foreman." Whereupon it was ordered that the verdict be recorded.

Defendant's bill of exceptions, No. 2.

JOHN W. LAPSLEY }
vs.
 ELIPHAS SPENCER. }

UNITED STATES CIRCUIT COURT FOR THE FIFTH CIRCUIT, FOR THE EASTERN
 DISTRICT OF LOUISIANA.

Be it remembered, that on the trial of this cause the plaintiff, by his counsel, offered the testimony of Jas. Hewetson, and the document marked A, referred to by said witness in his testimony; and the *plaintiff*, by his counsel, objected to the same being read in evidence, on the following grounds:

1st. That the document marked Exhibit A, and referred to by the witness, Hewetson, should have been annexed by the commissioner taking the testimony to the testimony itself, properly marked, identified, and enclosed in the same envelope with the testimony of Hewetson, and addressed to the court in accordance with law.

2d. That the fact that said document A was delivered to the plaintiff's agent after it was identified, and sworn to by the witness, and not annexed to the testimony, and not enclosed in the same envelope which enclosed the testimony, rendered the same inadmissible in evidence, and it ought not to have been allowed to go to the jury, although the attorney for the plaintiff proved to the jury of court that it was the same document referred to by the witness, Jas. Hewetson.

3d. That the testimony "de bene esse" of Hewetson ought not to have been read in evidence, because it was shown that Robert Howard, one of the counsel for defendant of record, lived in Galveston at the time his testimony was taken, and was not notified to attend.

4th. That A. M. Hughes, the commissioner, appears to be the agent of the plaintiff, and has assisted in preparing this case for trial.

5th. That the document A, referred to by the said witness, Hewetson, purports to be a copy of an original on file in a certain office; and it was not shown by evidence of any kind that Juan Gonzales was the proper custodian of the original, or the keeper of said office.

6th. That there was no evidence to show that Juan Gonzales had any right or authority by law to give certified copies from said office, and that a sworn copy of said document A should have been produced. That the absence of the original of said document A was not sufficiently accounted for, and it was not shown that the original could not have been produced; that there was no evidence shown that said document A was entitled to the weight and importance of a notarial act, there being no proof that the officer who executed the same had authority to execute such acts.

7th. That the commissioner should have identified said document A, by signing his name on the same, and referring to it in some manner, so as to remove all doubt as to its identity. That the commis-

sioner made no mark of any nature or description on said document, except to write the letter A on it; that his certificates referring to said document were on separate pieces of paper, and merely pasted to the document A, which pieces of paper could have been easily detached from document A, and been easily annexed to any other document upon which the witness, Hewetson, might have made the letter A and written his name. That there was nothing to show that the document A, introduced in evidence, was the same referred to by the witness, Hewetson, when he gave his testimony before the commissioner, except the evidence of plaintiff's counsel.

8th. That the document was not proved as required by the registration laws of Texas, and could not have been admitted to record by the laws of Texas, and was no evidence of title to land, and therefore inadmissible in this court.

9th. That said document was not sufficiently proved by said James Hewetson, because he did not state how he obtained his knowledge of the writings sworn to by him. He should have stated how he obtained his knowledge of the signatures sworn to by him, in order that the court and jury might be able to judge of its sufficiency, as will appear from said document A and testimony of Hewetson, hereunto annexed, and made part of this bill of exceptions. All of which objections were overruled by the court, and the testimony of Hewetson and the document A referred to by said witness were allowed to go to the jury, and were read in evidence; to which ruling the defendant excepted, and tendered this his bill of exception for the signature of the judge, to the end that the *signature of the judge to the end that the same might* be properly certified to the Supreme Court of the United States.

The judges sign this bill of exceptions with the statement that there was satisfactory evidence that Robert Howard was not the attorney of the defendant at the time of the taking of the deposition, and that there was no such evidence as is stated in the fourth objection, and that the court was of opinion that the document A was competent evidence without any proof contained in the deposition, and that there was evidence that the document A was the same paper exhibited to the witness, that it was in the same state in which it was when presented to him.

J. A. CAMPBELL,
Presiding Judge.

THEO. H. McCALEB,
U. S. District Judge.

Deposition of James Hewetson, annexed to foregoing bill of exceptions.

THE UNITED STATES OF AMERICA, *district of Texas, to wit.*

Be it remembered, that on this twenty-third day of February, A. D. 1855, I, Archibald M. Hughes, a commissioner of affidavits and bail in civil cases in the courts of the United States, duly appointed by the district court for the district aforesaid, at the request of Robert Hughes, attorney for the plaintiff herein, this day called and caused

James Hewetson to be and appear before me at my office, in the city of Galveston, in the district aforesaid, between the hours of nine o'clock of the forenoon and six of the afternoon, to testify, and the truth to say, in a certain action at law and matter of controversy now depending and undetermined in the circuit court of the United States for the eastern district of Louisiana, at New Orleans, wherein John W. Lapsley is plaintiff, and Eliphas Spencer is defendant, in behalf of the plaintiff. The said James Hewetson being of lawful age, and being by me first examined and cautioned, and sworn to testify the whole truth in regard to the matter of controversy aforesaid, deposeth and saith as follows, to wit:

That he is acquainted with the handwriting of Juan Gonzales, whose certificate and signature to the original testimonio of the power of attorney purporting to be executed by José Maria and Rafael Aguirre and Tomas Vega, in the city of Leona Vicario, on the fifth day of the month of May, one thousand eight hundred and thirty-two, before the said Juan Gonzales, regidor of said city, and second alcalde in turn, and which is now presented to him; and that from his knowledge of the handwriting of said Juan Gonzales, he does verily believe that the whole of said testimonio, including the certificate and signature of said Juan Gonzales, is in the handwriting of said Gonzales; that he is also well acquainted with the handwriting of José Manuel Moral and José Nazario Ortis, the persons who purport to be assisting witnesses to said testimonio, and he is well satisfied, and does verily believe, that the signatures to said testimonio, "José Naz. Ortis" and "J. M'l Moral," are in the handwriting of said Ortis and Moral. That said Gonzales and Ortis, when living, resided in the State of Coahuila. They are now both dead. Said Moral now resides in said State of Coahuila, in the now so-called republic of Mexico, and is, as he believes, now there. The testimonio above spoken of, in order to identify it, is marked A, and his, this deponent's signature thereon, and which the commissioner taking this deposition has certified to be the document referred to in this deponent's evidence, and has been returned to plaintiff's agent.

And further this deponent saith not.

JAMES HEWETSON.

Erased in 17th and 18th lines from bottom of first page the words "he is well satisfied and does," and the words "he does" interlined before signing.

A. M. HUGHES, *Com'r.*

And I, the said Archibald M. Hughes, the commissioner aforesaid, do certify that the reason for the taking the deposition of the said witness is, that the said witness, the said James Hewetson, resides and lives in the city of Saltillo, in the republic of Mexico, more than one hundred miles from the city of New Orleans, the place of trial of the action at law or matter of controversy aforesaid; and I do further certify that I gave no notice to the said Eliphas Spencer, or his attorney, to be present at the taking this deposition, and to put

interrogatories, if he or they thought proper; because neither the said Eliphas Spencer or his attorney is within one hundred miles of the city of Galveston, the place of the caption of this deposition, and where the same is taken; and I do further certify that, being attended by the witness, as stated in the caption, after being duly sworn, he testified in my presence as before set out, which was reduced to writing by me in the presence of the witness, and by him signed in my presence; and I do further certify that I am not of counsel or attorney to either of the parties in the action at law or matter of controversy aforesaid, or in any manner whatever interested in the event of the same. I have retained this deposition to be sealed up, directed and transmitted to the circuit court aforesaid, in accordance with the act of Congress in such case made and provided.

[L. s.] Given under my hand and seal, this twenty-third day of February, A. D. 1855, aforesaid.

A. M. HUGHES, *Com'r.*

Power of attorney from Tomas Vega to Samuel M. Williams.

Seal second, [L. s.,] twelve rials.

For the term of 1832 and 1833.

In the city of Leona Vicario, on the 5th day of the month of May, 1832, before me, the citizen Juan Gonzales, regido of the illustrious ayuntamiento of this city, and second alcalde in turn in it and its jurisdiction, by reason of the sickness of the proprietary, who acts for a delegate judge, in the absence of the notary public, of whom there is none in the terms of the law, and the instrumental witnesses who are mentioned at the end, appeared present the citizens licentiate José Maria Aguirre, Thomas Vega, and Rafael Aguirre, residents of this city, to whom I give credit, know, and *saw*: That in the most extensive form which has placed in right, they declare, agree, and confer all their power, or as much as is required, and in right may be necessary, on Mr. Samuel May Williams, a resident of the town of Austin, especial, to that in the name of the appearees, and on representation of their proper persons, rights, and actions, as soon as the law of colonization of the 24th day of March, 1825, permits, he can and may proceed, according to his will, to the sale of the leagues of land which on the 14th day of June, 1830, the supreme government of the State conceded to the appearees; to which end our said attorney can contract the sale or sales of the aforementioned leagues to the person or persons he thinks proper, whether for ready money or credit, at the time or times agreed upon, securing the amount of dollars for which he may sell said leagues, for the whole, to the extent necessary or which may be necessary; they give and confer the present power, without any limitation, the appearees desiring as they do desire, that by reason of the failure to insert a clause requisite, or condition which is not here expressed, this power may not fail to work the end for which it is conferred, inasmuch as everything as far as necessary is

given for, inserted, and agreed to, as if it were actually written, with a free, full, and general administration and faculty of adjudication and attestation; and that he may substitute, revoke the substitution, and nominate others anew, who, as to everything that may assist in form, and that everything may stand which shall be done and practiced by virtue of this power, the appearees bind themselves, with their persons and goods, present and future, and with them submit themselves to the señors the judges and justices, who can and ought to take cognizance of their business and causes, so that they may compel and force them, by all the vigor of the law, and as if it were upon sentence passed, on the authority of a thing adjudged, consented to, and not appealed from, which for such they receive it, renouncing their proper domiciliary right and residence, and all law which can favor them, with that in general of form. Thus they agreed and signed, being witnesses the citizens Antonio Espinosa, Rafael de Leon, and Francisco de la Fuente and Gonzales, present and residents of this city. I certify.

JUAN GONZALES,
 JOSÉ MARIA AGUIRRE,
 THOMAS VEGA,
 RAFAEL AGUIRRE.

Taken from the original, with which it agrees, on this the day of its date, given on two useful leaves of paper of the second seal, in conformity to law. All of which I, the undersigned judge, subscribe, acting with two of my assistants, according to law. I certify.

JUAN GONZALES.

Ass.: JOSÉ NAZO ORTIS.

Ass.: J. ML. MORAL.

Defendant's bill of exceptions, No. 3.

JOHN W. LAPSLEY }
 vs. }
 ELIPHAS SPENCER. }

UNITED STATES CIRCUIT COURT FOR THE FIFTH CIRCUIT AND EASTERN
 DISTRICT OF LOUISIANA.

Be it remembered, that on the trial of the above entitled cause the plaintiff, by his counsel, offered in evidence the deposition of James Hewetson, in which said witness, Hewetson, says, that the document marked "Exhibit A," and having the signature of said witness thereon, by way of identification, is, together with the certificate and signature of Juan Gonzales to said document, all in the handwriting of said Juan Gonzales, as will appear by reference to the deposition of said James Hewetson, and the said document A, annexed to and made a part of one of the bills of exceptions accompanying this record, (see page —;) and in order to impeach or discredit the testimony of said James Hewetson, the defendant, by his counsel, offered to

introduce experts who had never seen a writing of the officer before, to prove that the body of said document "A" and the name Juan Gonzales, signed thereto, were not written by the same person, and the court refused to allow experts to be sworn and introduced for that purpose; to which ruling of the court the defendant, by his counsel, excepted and tendered this his bill of exceptions, to the end that the same might be properly signed by the court, and certified to the Supreme Court of the United States.

J. A. CAMPBELL,

Associate Justice, Supreme Court of the U. S.

THEO. H. McCALEB,

United States District Judge.

Defendant's bill of exceptions, No. 4.

JOHN W. LAPSLEY

vs.

ELIPHAS SPENCER.

} No. 2452.

Be it remembered, that on the trial of this cause it appeared in evidence that the document purporting to be the order of the governor to the original petition, dated June fourteenth, eighteen hundred and thirty, of José Maria de Aguirre, Rafael de Aguirre and Tomas de la Vega, for eleven leagues of land, each, was not signed by the governor, and was without date.

The certificate of Santiago del Valle, secretary, to the copy of said purported order, is dated "Leona Vicario, June 13, 1830." The petition of Williams, as agent of José Maria de Aguirre, Rafael de Aguirre and Tomas de la Vega, to be put in possession of the land conceded to his principals by virtue of said pretended grant, situated in the colony of Austin and Williams, address to the alcalde of the village of Austin, dated October 3, 1853, was referred by Lessassier to the Empresarios Austin and Williams for their approbation, and the approbation was signed by Williams alone—signed thus: "Samuel M. Williams, for himself and as attorney for his associate;" all of which papers, with the certificates and translations, appear in this record, there being no evidence on the trial that Williams had any authority to act for his associate. The scientific surveyor, Francis W. Johnston, was ordered to the survey, and the return to that order was signed "F. W. Johnston," and was without date. It also appeared in evidence by the deposition which forms a part of the record of Francis W. Johnston, principal surveyor of Austin and Williams colony at that time, that he did not make the survey of the land in question; that he did no surveying in the region of country where this land is situated; that he had a deputy surveyor by the name of Wm. Moore, who surveyed in that region of country, but that he never returned any of the surveys made by the said deputy without first approving them, dating them, and signing them officially. It also appeared in evidence that Tomas de la Vega, the grantee of this land, was a citizen of the republic of Mexico, and never did reside in

the republic or State of Texas. It also appeared in evidence that Samuel M. Williams, in 1840, acting as the agent of Tomas de la Vega, conveyed said land to N. F. Williams and M. B. Menard, in trust for Sophia J. St. John, and recited in said deed that he had a power of attorney from Tomas de la Vega for that purpose. Said Sophia J. St. John resided in the State of Connecticut, and never did reside in the republic or State of Texas; and that she was the sister of said N. F. and S. M. Williams.

It was admitted that certain absent witnesses would give in evidence that the land in controversy was in the colony of Robertson, and that said colony was subsisting and in full force, and was recognized by the then government of Coahuila and Texas, at the time the title of possession was applied for and obtained, and also that the land in controversy was within the municipality and jurisdiction of San Antonio de Bexar. The map of Texas was in evidence, from which it appeared that San Felipe de Austin was nearer and nearer in consequence to this land than Bexar. The defendant produced no evidence of any title to the land in controversy, and no evidence of possession beyond two or three years was given.

Upon which evidence, in connexion with other facts appearing in the record of this cause, the defendant, by his counsel, asked the court to give the following charges to the jury, hereto annexed, which the court refused. But the court, instead of the special instructions asked either by the plaintiff or defendant, instructed the jury as is hereafter set forth.—(See post page —.) To which refusal of the court to charge as instructed the defendant excepts, and prays the court to sign and seal the bill of exceptions, which is done accordingly.

J. A. CAMPBELL,

Associate Justice Supreme Court, U. S.

Instructions to jury asked by defendant and referred to in foregoing bill of exceptions.

JOHN W. LAPSLEY

vs.

ELIPHAS SPENCER.

The court is asked by the defendant's attorneys to charge the jury in this case as follows, to wit:

1st. The plaintiff must recover upon the strength of his own title, and not on the insufficiency of the defendant's.

2d. The plaintiff must show or deraign a perfect title from the government of Coahuila and Texas to himself, in order to recover.

3d. In order to find for the plaintiff, the jury must be satisfied that all the material allegations of the petition have been proven, and that the land claimed and described in said petition was granted to Tomas de la Vega.

4th. Although the acts of an officer attested by his official signature and seal (if he uses a seal) are *prima facie* evidence of their correctness and of his power to act, yet this presumption ceases when his acts are not officially attested.

5th. The jury must be satisfied that Samuel M. Williams was clothed with the power of the citizen "Thomas de la Vega," a resident of the city of Leona Vicario, authorizing him to ask and solicit the possession of eleven leagues of land in favor of said Thomas de la Vega.

6th. The jury must be satisfied from evidence *aliunde* that "Lesassier" was the alcalde of the town of Austin, inasmuch as he acts upon the petition of Samuel M. Williams addressed on the 3d of October, 1833, to the alcalde of the town of Austin, without attesting said act officially, or showing therein that he had any authority to act as such officer.

7th. If the jury are satisfied from the evidence that Lesassier was the alcalde of the town of Austin, and was the proper person to pass upon the petition of said Williams, and to order the same to be passed to the seniors Empresarios Austin and Williams for their approbation, then, in order to find for plaintiff, they must be further satisfied that both Austin and Williams acted upon said petition, and give their approbation thereto.

8th. An authority given to two cannot be executed by one; and if jury do not find it proved affirmatively that S. M. Williams had authority to act for Stephen S. Austin in granting the concession, then the jury must find for the defendant.

9th. An officer cannot delegate the duties or powers of his office without express authority of law.

10th. The act of an attorney in fact when called in question is invalid, unless supported by proof of authority from the principal.

11th. The attorney in fact, in exercising his power as such, must do so in the name of his principal.

12th. In order to find for the plaintiff, the jury must be satisfied that "the scientific surveyor, Francis W. Johnson," made the survey of the "eleven leagues of land" described in plaintiff's petition.

13th. If the jury find from the evidence that the government, through its proper officer, to wit, the governor, did not concede in sale in conformity to article twenty-four of the law of colonization of the 24th day of March, 1825, the eleven leagues of land claimed by plaintiff, to Thomas de la Vega, they will find for the defendant.

14th. An instrument of writing, purporting to emanate from an officer of the government, such as a deed of sale, and the like, without the signature of such officer thereto, or without the name and official capacity of such officer therein, confers no power and vests no right.

15th. When an agreement or disposition of property can only operate by writing, an instrument referring to another must describe it so clearly that by the description it may be identified.

16th. A conveyance of land by an attorney in fact cannot be made unless the instrument of writing which authorizes the attorney to make the conveyance describes the land with the same certainty as is requisite to pass the title to the particular estate conveyed by deed. The attorney must be expressly empowered to sell the identical land which he describes and conveys in the name of his principal.

17th. Title to land obtained through fraud is void. Fraud is a

question of fact which the jury must decide from all the circumstances ; it cannot be presumed ; it must be a conclusion from facts, that will not admit of any other construction consistent with fair dealing.

18th. Those claiming under a void grant have no right.

19th. A defendant in an action of trespass to try title can interpose a superior outstanding title in a third person.

20th. If the jury are not satisfied that the grantee of the land in controversy alienated it, and that the plaintiff has exhibited his deed therefor, properly authenticated as his act, they will find for the defendant.

21st. In order to find for the plaintiff, the jury must be satisfied from the evidence that Tomas Vega, who gives a writing purporting to be a power of attorney to Samuel M. Williams, offered in evidence by plaintiff in connexion with the witness Hewetson's deposition, is the same identical person to whom the alleged grant of eleven leagues of land purports to have been made.

22d. An assignee who claims lands conveyed by an attorney in fact has no title, unless his deed is in conformity with and accompanied by the power of the assignor, strictly pursuing "in form and substance" the special authority ; and any act or deed not agreeable thereto, nor warranted thereby, must be void.

22d. If the jury are satisfied that the power of attorney offered in evidence was executed by Tomas de la Vega (the purported grantee of the land) to Samuel M. Williams, then, before they can find for the plaintiff, they must be further satisfied that said Williams was empowered thereby to sell the particular described land in controversy ; and they must be further satisfied that said power is properly authenticated for record in Texas, in conformity with the laws of registration of that State.

23d. In order to find for the plaintiff, the jury must be satisfied that Tomas de la Vega empowered Samuel M. Williams to sell the land claimed by plaintiff.

It is settled by the constitution of the republic of Texas that no alien shall hold land in the republic of Texas except by titles emanating directly from the government of the republic of Texas ; and if the jury find from the evidence that the legal or equitable title to the land in controversy was in Tomas de la Vega, a citizen of the republic of Mexico, or Mrs. Sophia St. John, a citizen of the State of Connecticut, after the 17th day of March, 1836, and that either said Tomas de la Vega or Mrs. Sophia St. John was an alien to the republic of Texas, then the jury must find for defendant.—(Hartley's Dig., p. 42.)

25th. That all persons who were not resident citizens of the republic of Texas on the 17th day of March, 1836, were aliens within the purview of the constitution of the republic of Texas.

26th. That by the laws of Spain in force in Coahuila and Texas in the year 1834, a foreigner could not hold land in the State of Coahuila and Texas ; and if the jury find that either the legal or equitable title to the land claimed by plaintiff was in Mrs. Sophia St. John in the year 1834, and that Mrs. Sophia St. John was then an alien to the

State of Coahuila and Texas, then the jury must find for the defendant.

27th. That if the jury find that Samuel M. Williams was guilty of fraud in obtaining from the government the title to the land claimed by the plaintiff, then Tomas de la Vega, his principal, is affected by the taint and legal consequences of the fraud of Williams, his agent, and the jury must find for the defendant.—(9 Texas R., 602.)

28th. If the jury believe from the evidence that the land in controversy is situated within the limits of the colony of Austin and Williams, they must find for defendant.

29th. If the jury believe from the evidence that the land in controversy is situated in the colony of Robertson, they must find for the defendant.

30th. If the jury believe from the evidence that the land in controversy is situated in the municipality of San Antonio de Bexar, they must find for defendant.

31st. If the jury believe from the evidence that the alcalde extended the title to Williams without the original grant being presented to him, but simply had before him an authentic copy, the grant itself is void, and they must find for the defendant.

32d. If the jury are satisfied from the evidence that, at the time Lesassier extended the title, to wit, on the 4th day of October, 1833, no survey of the land had been made and returned to said Lesassier by Francis W. Johnson, or by some legally authorized deputy of his, they will find for defendant.

Charge of the court to the jury.

The court, in substance, instructed the jury, that the plaintiff was entitled to recover only upon the production of a valid title to the possession of the land which he claimed of the defendant.

He had undertaken to do this by the production of a grant from the government of the Mexican States of Coahuila and Texas to one Tomas de la Vega, and title to himself deduced from that person.

In reference to the grant, the court charged the jury that the governor was authorized to make a sale of eleven leagues of land in the manner set forth in the petition, and the decree of that officer upon it, and that the paper produced was competent evidence of such a contract.

In reference to the survey, location, and title in form, which forms a part of the evidence, the court charged that the court was required to take notice of the organization of the States of Coahuila and Texas, and who were competent officers to perform the duties imposed in the decree of the governor upon the petition of La Vega. The court charged that there was no such organization of the colonies of Robertson, or Austin and Williams, as to render it indispensable for the grantee to apply to a commissioner for distribution to perfect the grant of the governor. That those colonies were not empresarios in the sense in which that term was employed in that decree; and that having reference to the location of the land and the situation of the

parties, as shown by the evidence, the alcalde of San Felipe de Austin was a proper officer for taking the measures proper for the perfection of the grant. That the grant was sufficient to appropriate the land embraced in it. That having issued from a competent authority to a qualified grantee upon a league and valid consideration, it was operative to vest the land in the grantee if the land was sufficiently defined.

The court instructed the jury, that if the land could be defined it was not material that the persons could not find the corner trees specified, or that there were inaccuracies in the measurements of distances; nor could the grant be defeated in this action by proof that the principal surveyor did not in person perform the work, or that the survey was made before the order to make it was given. That if there was such a line as the north line of the Manchacca grant, terminating on the river, or such a point as the point called for on the Brazos river, at the termination of the survey, the land could be located, and the grant appropriated it until it was annulled by a competent authority.

The court further instructed the jury, that there was no evidence before the jury of fraud in the making of the grant which would serve as a defence against it in their action.

The court instructed the jury, that it was necessary for the plaintiffs to connect themselves with the title of La Vega by valid conveyances. That the power of attorney to Williams contained sufficient authority to him to sell three leagues of land, if it was executed by the grantee, Thomas de la Vega; that the fact that the power was signed Thomas Vega is of no consequence, if the person is the same as the grantee.

That the evidence was very strong of the identity. The power purported to be given by three persons who were united in the first petition in the place where the grant was issued, and where they resided, before a public officer at the place, who certifies he knew them. The power was given to the person who had located the grant, and acted on behalf of this person under his authority.

That the grantee, and no person claiming from him, disputed the power or the sale, but a stranger without any title, and who had adduced no independent evidence to disprove the case of the plaintiff as to the identity of the donee of the power.

That the power was acted on in 1840, and subsequent conveyances had been taken, and no evidence of any contrary claim from La Vega had been shown.

That these transactions took place a long while ago, when the country was unsettled, the land comparatively of little value, and the organization of the State incomplete; and that the presumptions were in favor of the transactions, unless upon strong proof to the contrary, or coming from persons having a right in the land. And with these observations the question was submitted.

The court further charged the jury, that the fact that Sophia St. John was a resident and native of the State of Connecticut in 1840, at the date of the conveyance to her trustees, was of no importance in this action.

Defendant's bill of exceptions, No. 5.

JOHN W. LAPSLEY }
 vs. } U. S. circuit court for the fifth circuit and east-
 ELIPHAS SPENCER. } ern district of Louisiana.

Be it remembered, that, on the trial of the above entitled cause, the court erred in instructing the jury as follows: "The court further instructs the jury, that there was no evidence before the jury of fraud in the making of the grant, which would serve as a defence against it in this action." And the defendant, by his counsel, excepted to the said instruction of the court, for the reason that fraud is a question of fact for the finding of the jury.

And the court further charged the jury as follows: "That the power of attorney to Williams contained sufficient authority to sell these leagues of land if it was executed by the grantee, Thomas de la Vega. That the fact that the power was signed Thomas Vega was of no consequence if the person was the same as the grantee; that the evidence was very strong of identity, the power purported to be given by the three persons who were united in the first petition in the place where the grant was issued, and where they resided, before a public officer of the place, who certifies he knew them. The power was given to the person who had located the grant, and acted on behalf of this person under his authority." To which charge the defendant, by his counsel, excepted, upon the ground that it was a matter of fact for the jury to find from the evidence whether Hosea Maria Aguirre, Rafael Aguirre, and Thomas Vega, who executed said power of attorney, were in fact the same persons who petitioned the government for land over the names of Hosea Maria de Aguirre, Rafael de Aguirre, and Thomas de la Vega.

And the court further charged the jury as follows: "That the grantee, and no person claiming from him, disputed the power or the sale; but a stranger without any title, and who had adduced no independent evidence to disprove the case of the plaintiff as to the identity of the donor of the power." To which charge the defendant, by his counsel, excepted, upon the ground that the plaintiff was bound, in order to recover, to show by clear proof that the grantor of said power of attorney, to wit, Thomas Vega, was in fact Tomas de la Vega.

The court erred in charging the jury, that the fact that Sophia St. Johns was a resident and native of the State of Connecticut in 1840, at the date of the conveyance by Samuel M. Williams, as the agent of Tomas de la Vega, to her trustees, was of no importance in this action; because neither said Tomas de la Vega, being a citizen of Mexico, an alien to the republic of Texas, nor Sophia St. Johns, being also an alien, could hold land in the republic of Texas except by title emanating directly from the republic of Texas.

The court further charged the jury, that a survey of the grant of land claimed by plaintiff was not necessary to the validity of the grant, provided there had been a previous survey by which the land could be defined; and that the testimony of the principal surveyor, Francis

W. Johnson, was entitled to no weight, as there was no evidence of the forgery of his name in this case. Whereupon, the defendant called the attention of the court to the affidavit of defendant alleging forgery, hereto annexed, and made a part of this bill of exceptions; and then the court instructed the jury that said affidavit or plea of forgery was entitled to no consideration as evidence in the cause, and that the said Johnson could not disclaim the official act so as to defeat a survey which he may have adopted and certified; which said testimony of said Johnson is hereto annexed and made a part of this bill of exceptions. To all of which defendant, by his counsel, excepted, and tendered this his bill of exceptions, in order that the same might be signed by the court, and properly certified to the Supreme Court of the United States.

J. A. CAMPBELL,
Asso. Justice S. C. U. S.

THEO. H. McCALEB,
U. S. District Judge.

Nota.—The charge given by the court is set forth in the bill of exceptions, and reference is made to that for an explanation of the bill of exceptions; for the charge see ante, page 55.

Plea of non est factum, annexed to bill of ex.

Plea of non est factum will be found ante, page 26.

Deposition of S. W. Johnson.

Being unable, on account of sickness, to be present at the examination of Francis W. Johnston, in the case of Lapsley vs. E. Spencer, I must ask him, in continuation of his testimony, to answer the following questions:

Who surveyed the land about which you are testifying, if you did not?

Was that person a legally qualified and sworn deputy surveyor? Was he your deputy?

Did you adopt his act in surveying this grant by signing your name to the field notes of survey, and returning them to the proper office?

Was it customary for surveyors to appoint deputies and receive their work and return it as their own to the proper office?

Did you not do this in many cases besides the one under consideration?

Did not other surveyors do the same; was it not a common practice; would it not have been impracticable for surveyors personally to have made every survey required of them?

THOS. HARRISON.

THE STATE OF TEXAS, *county of Burleson.*

JOHN LAPSLEY
 vs.
 ELIPHAS SPENCER. } No. 2452.

JOHN LAPSLEY
 vs.
 JAMES BARTON. } No. 2453.

JOHN LAPSLEY
 vs.
 DAVID BARTON. } No. 2454.

JOHN LAPSLEY
 vs.
 JOHN BARTON. } No. 2455.

JOHN LAPSLEY
 vs.
 JAMES MARLIN. } Nos. 2456, 2457, 2458, 2459, 2461, and 2462.

Pending in the circuit court of the United States for the fifth circuit and eastern district of Louisiana, on change of venue from the federal court of the United States for the western district of Texas, holden at the city of Austin, spring term, A. D. 1856.

Be it remembered, that on this the 24th day of March, one thousand eight hundred and fifty-six, I, Landay Shoemake, a notary public in and for said State and county, duly commissioned and sworn, upon application of M. D. Herring, attorney for the defendants hereinafter named, caused Francis W. Johnson to be and personally appear before me, at the residence of James Borens, in the said county of Burleson and State of Texas, to testify and the truth to say, in behalf of the defendants, in certain actions at law, or matters in controversy, now depending and undetermined in the circuit court of the United States for the fifth circuit and eastern district of Louisiana, in New Orleans, wherein John Lapsley is plaintiff, and Eliphas Spencer, James Barton, David Barton, John Barton, James Marlin, George Bernard et als., are respectively defendants; there being present, M. D. Herring, and said Francis W. Johnson, being about fifty-six years of age; and said Johnson being by me first examined, cautioned, and sworn to testify the whole truth, in answer to interrogatories propounded by the said Herring, deposed as follows, to wit:

I arrived in Texas in August, A. D. 1826. In the fall of 1832 I was appointed principal surveyor of Austin and Williams' Colony; in the winter of 1832, and in the spring of A. D. 1833, and in the winter of 1833, and the spring of 1834, I was engaged in making surveys in what is known as Roberson's Colony, and then Austin and Williams' Colony; the surveys on the Brazos river were commenced at the old San Antonio road, and thence continued up said river near the mouth of San Andres or Little river, a short distance above what then was called the forks of said river; other work done by me was on the San Antonio road; I never made any surveys on the east side

of the Brazos river, above the mouth of San Andres or Little river, which empties into the river Brazos, a short distance above the old town of Nashville.

I have examined a certified transcript of translation of title to an eleven leagues of land granted to Tomas de la Vega, Samuel M. Williams, attorney, situated in McLennan county, dated at Austin the 17th day of February, A. D., 1854, and signed S. Crosby Coner; wherein the survey of said land purports to have been made by F. W. Johnson, on the left margin of the river Brazos, at the place where there is *and* Tahuacno Indian village, and in front of the Waco Indian village. I did not survey said land, and cannot state that said survey was ever made. William Moore was a deputy, and was engaged in making surveys above the mouth of San Andres or Little river. All work done by deputies was before returned to the office, was examined, approved and dated, and signed officially by me. The aforesaid survey is situated in what is known as Roberson's Colony, then as Austin and Williams' Colony. Neither Austin nor Williams resided in the limits of what is known as Roberson's Colony.

In answer to interrogatories propounded by Thomas Harrison, attorney for plaintiff, which are hereunto attached, said witness, Johnson, deposes as follows, to wit:

In answer to first interrogatory he says: I do not know; if at all, by William Moore.

In answer to second interrogatory. William Moore was a legally authorized and appointed deputy of mine.

In answer to interrogatory third. I have no recollection of this particular grant, or the field notes thereof. As I have before stated, work done by my deputies, before returned, was examined, approved, dated, and signed officially by me.

In answer to interrogatory fourth. It was not.

In answer to interrogatory fifth. In all cases where my authority extended.

In answer to interrogatory sixth. No other surveyors had any deputies. As before stated, I was the principal surveyor of Austin and Williams' Colony. It not only would have been impracticable for surveyors personally to have made every survey required of them, but it would have been for their deputies, also; and further this deponent saith not.

F. W. JOHNSON.

And I, Landay Shoemake, notary public as aforesaid, do certify that the reason for taking the foregoing deposition is, that said Francis W. Johnson resides in Ellis county, in the State of Texas, and now is in Burleson county aforesaid, both of which said counties are more than one hundred miles from New Orleans, in the State of Louisiana, the place of trial of the actions at law or matters in controversy aforesaid. And I do further certify that notice was given to Thomas Harrison, attorney for said plaintiff, Lapsley.

*Judgment.**April Term, A. D. 1856.*NEW ORLEANS, *Friday, May 30, 1855.*

Court met pursuant to adjournment. Present, Hon. J. A. Campbell, presiding judge ; present, Hon. Theo. H. McCaleb, district judge.

JOHN W. LAPSLEY }
vs. } No. 2452.
 ELIPHAS SPENCER. }

Trespass to try title.

This day came the parties aforesaid by their attorneys, and thereupon came a jury of lawful men, to wit: S. A. Kingsland, J. W. Burbridge, Chas. H. Lee, B. M. Howell, Jas. H. Suydam, C. Hillard, W. H. Cook, Jas. J. Bard, G. W. Miller, Martin Gordon, H. H. Bryan, and J. C. Ricks, who, being sworn, well and truly to try the issue joined, upon their oaths do say: "We, the jury, find for the plaintiff the land described in his petition, and assess the damage at one dollar. New Orleans, May 30, 1856. S. A. Kingland, foreman." It is therefore considered by the court that the plaintiff, John W. Lapsley, recover of the defendant, Eliphas Spencer, the tract or parcel of land in his petition mentioned and described, with the hereditaments and appurtenances thereunto belonging, with the damages aforesaid by the jurors aforesaid, in form aforesaid, assessed, also his costs by him about his suit in this behalf expended, amounting to the sum of

And it is further ordered that the said plaintiff have execution of this judgment by writ of habere facias possessionem, and by fieri facias, as required by law, either to Texas or in this district.

Judgment rendered 30th May, 1856. Judgment signed 4th June, 1856.

J. A. CAMPBELL,
Associate Justice Supreme Court.

Petition of Appeal.—Filed 31st May, 1856.

JOHN W. LAPSLEY }
vs. } U. S. circuit court, eastern district of Louisiana.
 ELIPHAS SPENCER. }

The petition of Eliphas Spencer, defendant herein, respectfully represents that he is aggrieved by the judgment herein rendered against him on May 30, 1856, and is informed that there is error therein to his prejudice, wherefore he prays that a writ of error be allowed him therefrom, returnable to the next term of the Supreme Court of the United States, and that the same may operate as a supersedeas on his giving bond and security, conditioned according to law, in such sum as the court may direct ; and he will ever pray, &c.

SINGLETON & HERRING,
Of counsel for defendant.

NEW ORLEANS, *Saturday, May 31, 1856.*

Present: Hon. J. A. Campbell, presiding judge; Theo. H. McCaleb, district judge.

JOHN W. LAPSLEY }
vs.
 ELIPHAS SPENCER. }

Motion and order for writ of error.

On motion of M. D. Herring, esq., of counsel for defendant, and on representing to the court that the said defendant is aggrieved by the judgment rendered against him herein on the 30th instant, and that he is advised that there is error therein to his prejudice, and that he is desirous of having a writ of error therefrom to the Supreme Court of the United States, the same to operate as a supersedeas, it is ordered that a writ of error be allowed, as asked, on defendant's giving bond conditioned according to law in the penal sum of two thousand dollars, with good and solvent surety thereon.

Bond for writ of error.—Filed June 7, 1856.

Know all men by these presents, that we, Eliphas Spencer, as principal, and Tom. Henderson and Geo. P. Black, as sureties, are held and firmly bound unto Jno. W. Lapsley in the full and just sum of two thousand (\$2,000) dollars, to be paid to the said Jno. W. Lapsley, his certain attorney, executors, administrators or assigns, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, jointly and severally by these presents. Sealed with our seals, and dated this seventh day of June, in the year of our Lord one thousand eight hundred and fifty-six. Whereas, lately at a circuit court of the United States, fifth judicial circuit, holding sessions in and for the eastern district of Louisiana, at New Orleans, in a suit depending in said circuit court, wherein Jno. W. Lapsley is plaintiff, and Eliphas Spencer is defendant, judgment was rendered against the said Eliphas Spencer, and the said Eliphas Spencer having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation directed to the said Jno. W. Lapsley, citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington, the first Monday of December next. Now the condition of the above obligation is such, that if the said Eliphas Spencer shall prosecute his writ to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

ELIPHAS SPENCER, [L. s.]

TOM. HENDERSON, [L. s.]

GEO. P. BLACK. [L. s.]

Sealed and delivered in the presence of—

A. LAVISSON.

UNITED STATES OF AMERICA,
*Circuit court of the United States, fifth circuit
 and eastern district of Louisiana.*

CLERK'S OFFICE.

I, John W. Gurley, clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing 72 pages contain and form a full, complete, true and perfect transcript of the record and proceedings had in the case of John W. Lapsley *vs.* Eliphas Spencer, No. 2452 of the docket, so far as the same now remain of record or on file in said court.

[L. s.] Witness my hand and the seal of said court, at the city of New Orleans, this 15th day of July, A. D. 1856.

J. W. GURLEY, *Clerk.*

Writ of error.

UNITED STATES OF AMERICA, *ss.*

The President of the United States, to the honorable the judges of the circuit court of the United States in and for the fifth circuit, and holding sessions for the eastern district of Louisiana, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or one of you, between John W. Lapsley and Eliphas Spencer, a manifest error hath happened, to the great damage of the said Eliphas Spencer, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this seventh of June, in the year of our Lord one thousand eight hundred and fifty-six.

J. W. GURLEY,

*Clerk of the United States Circuit Court
 for Eastern District of Louisiana.*

Citation in error.

THE UNITED STATES OF AMERICA.

The President of the United States to John W. Lapsley, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on

the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, wherein Eliphas Spencer is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this seventh day of June, in the year of our Lord one thousand eight hundred and fifty-six.

J. A. CAMPBELL,

Associate Justice of the Supreme Court U. S.

Marshal's return.

Received June 7, 1856, and on same day served copy of the within citation in error on Judge Robert Hughes in person, in the city of New Orleans, and returned June 7, 1856.

H. DUFELHY, *Deputy Marshal.*

ADDITIONAL RECORD.

CIRCUIT COURT OF THE UNITED STATES, FIFTH CIRCUIT AND EASTERN DISTRICT OF LOUISIANA.

Translation of the original title of possession despatched by Luke Lessasier, alcalde of San Filipe of Austin, on the 4th day of October, 1833.

MR. ALCALDE OF THE TOWN OF AUSTIN: The citizen Samuel M. Williams, the manner which has better place in right and under the useful and necessary protestations, present myself and say, that I am clothed with the power of the citizen the licentiate José Maria Aguirre, Rafael Aguirre, and Thomas Vega, residents of the city of Leona Vicario, authorizing me to ask and solicit the possession of eleven leagues of land in favor of each one of my constituents, by which to obtain the right according to the regulation of article twenty-four of the law of colonization of the State, of the 24th day of March, 1825, by means of the sale of which the supreme government of the State conceded them, of the date of the 14th day of June, 1830, as is shown by the authenticated copy of the original document despatched by the secretary of the same supreme government, which original has been annexed to the despatch formed in favor of the citizen Thomas Vega, and the referred to copy is presented to you for the corresponding ends. And it being convenient for my parties to take their lands at different points, in their names I request, by means of your justice, that you please to command to be given to me the title of personal possession of eleven leagues of land on the left margin of the river

Brazos, at the point where there is a town of the savages which is called "Tahuacano," opposite to that of the Huecos, within the colony of the Señors Empresarios Austin and Williams, they giving their approbation, and also under the knowledge that by the superior order of the date of the 2d of May, 1832, of the supreme government you have the authority to give this possession, which is annexed to the despatch formed in favor of the citizen José Maria de Aguirre, praying you command the doing whatever act may conduce to the interest of my party, in the knowledge of which I offer to cultivate in conformity to that provided by the law, and to comply with the other obligations of the same. Therefore, I beg you to please to attend to this petition, in which I will receive grace and justice.

SAMUEL M. WILLIAMS.

TOWN OF AUSTIN, *October 3, 1833.*

TOWN OF SAN FELIPE OF AUSTIN, *October 3, 1833.*

Presented and allowed, as asked for. This shall be passed to the Señors Empresarios Austin and Williams, so that they may show what is proper concerning this proceeding, and, having their approbation, it shall pass to the scientific surveyor, Francis W. Johnson, to make a survey of the eleven leagues denounced by the attorney of Thomas de la Vega, so that in view of it, and of the classification which he ought to make of it according to law, the corresponding title and sale be extended. Annex the documents referred to. Thus I sign.

LESASSIER.

TOWN OF SAN FELIPE OF AUSTIN, *October 4, 1833.*

Using the power conceded to us by the laws, and in conformity to article 9 of the contract which we have made with the supreme government of the State, the denunciation is approved which is made by the attorney of Don Thomas de la Vega of eleven leagues of land upon the left margin of the river Brazos, which is entirely vacant.

SAMUEL M. WILLIAMS,

For himself, and as attorney in fact for his partner.

MR. ALCALDE AND COMMISSIONER: The land which I have surveyed, in virtue of your decree, which precedes, for the attorney of Thomas Vega, is situated on the left margin of the river Brazos, at the point where there is an old town of the Tahuacanos Indians, and opposite to the town of the Huacos Indians, and bounded on the lower part by three leagues of land surveyed for the citizen José Antonio Manchaca, and has the lines, limits, boundaries, and corners as follows: Beginning the survey at the upper corner of said land at a stake upon said margin of the river, from which twelve and six-tenths varas north, seventy-five degrees west, there is a tree called a "box-elder," eight inches in diameter, and eleven and eight-tenths varas north, fifty-eight degrees west, there is another "box-elder," six inches in diameter; thence from said stake run a line north sixty-two degrees east; at three hundred and sixty varas crossed the creek called Tahuacano,

and at seventeen thousand and ninety-three varas created a stake upon the upper line of the referred to land; from this point run another line north, twenty-eight degrees west, fourteen thousand one hundred and eighty varas, and created a stake in the plain; from this point run another line south, sixty-two degrees west, twenty-two thousand nine hundred and fifty-three varas to a stake on the river, for the upper corner, opposite the mouth of the river Bosque; from which two varas south, nine degrees east, there is a poplar six inches in diameter, and nine varas north, five and one-half degrees east, another poplar eighteen inches in diameter; from this point run down the river, following the meanders thereof, to the place of beginning, containing a plane area of eleven leagues of land, or that which is the same, two hundred and seventy-five million square varas, bounded by the river, and on the lower side by the aforesaid mentioned lands of ———, and on the other side by vacant lands. The uplands of the river are covered with oak, ash, poplar, hackberry, and in the plains there is musquite, and is composed, according to my best judgment, of two leagues of temporal and nine leagues of grazing land, and its figure is that shown on the annexed plan.

F. W. JOHNSON.

MOST EXCELLENT SEÑOR GOVERNOR: The citizen licentiate José Maria Aguirre, Rafael de Aguirre and Tomas de la Vega, before your excellency explain, with due respect: That the law of colonization permits us, in the form and manner provided in article twenty-four, to acquire by purchase vacant lands in the State. Your excellency will be pleased to concede to each one of the petitioners eleven leagues of grazing land, on the river San Antonio, or in whatever other point may best suit us, all in one body or in different parcels, according to our will and election; for which we promise to pay the price designated by law, and to comply with all the other obligations which attach to us as purchasers, in which we will receive grace and favor.

JOSÉ MARIA DE AGUIRRE,
RAFAEL DE AGUIRRE,
THOMAS DE LA VEGA.

LEONA VICARIO, 14th day of June, 1830.

In conformity to article twenty-four of the law of colonization of the 24th day of March, 1825, I concede in sale to each one of the petitioners the eleven leagues of land which they solicit in the vacant lands of the State, in the place designated or in that most convenient, after the selection by the commissioner of the supreme general government—a sufficiency for the payment of that which the State is indebted to the federation. The constitutional alcalde of the municipality to which belongs the referred to lands shall give the possession of said leagues, and despatch the corresponding title, previously certifying the class and quality of them, for the ascertainment of that which ought to be paid to the State; for which payment I

concede the terms designated in article twenty-two of the referred to law. Give by the secretary, for those interested, a copy of their petition and of this decree ; so that, going with it to the commissioner, it may produce the effects which are consequent. This is a copy of the original, which remains in the archives of the secretary's office of my charge, to which I refer, whence I am commanded to take it, by the disposition of the most excellent señor the governor.

SANTIAGO DEL VALLE, *Secretary.*

LEONA VICARIO, *13th June, 1830.*

MOST EXCELLENT SEÑOR: The citizen José Maria de Aguirre, for himself and in the name of those of like class, Thomas Vega and Rafael Aguirre, before your excellency, with the greater respect, says that, having petitioned from this government, in the year 1830, the concession to them in the quality of a company, the leagues of land vacant of the State, which can be conceded to Mexicans in sale, and meeting no embarrassment in this pretension, said government was pleased to accede to it, agreeing on the 14th day of June of the said year of 1830, that, as soon as the federation should have taken the lands, which was then pretended to be purchased from the State, that we should have the possession of the leagues which were conceded to us by the alcalde or alcaldes in whose jurisdiction they might be. It appears that now is the time to be able, without obstruction, to proceed to obtain the land which we have contracted for in the class of sale ; and supposing it to correspond to some one of the enterprises of colonization, for the corresponding distribution of lands, the commissioner of surveys ought to be appointed. I pray of your excellency properly to resolve, that not only the alcaldes before whom we present ourselves shall proceed to give us the possession of the leagues which we select, but that also in case he cannot do so, the commissioner of surveys, in order to avoid thus whatever inconvenience may obstruct the possession which we ask, to your excellency we petition, properly to decree in conformity, in which we will receive justice.

JOSÉ MARIA DE AGUIRRE.

LEONA VICARIO, *May 2, 1832.*

LEONA VICARIO, *2d of May, 1832.*

In view of the preceding petition, and in conformity to the disposition of this government in an order passed by the political chief of the department of Bexar, on the 2d day of June, 1830, I have come to nominate, so that he give possession of the lands which are indicated in this petition, the commissioner for the distribution of lands in the empresa to which belongs the leagues conceded to the petitioner and his companions ; and in case they do not belong to any empresa, the first or only alcalde of the respective municipality, or that more immediate, so that according to the rule of the instructions, and the orders operating on the subject, he proceed to give the indicated possessions. Give the interested party, by the secretary, a

copy of his petition and this decree, that the effects may be had which are consequent.

LETONA.

SANTIAGO DEL VALLE, *Secretary*.

This is a copy of the original which remains in the archive of this office of my charge, whence I was commanded to take it by the disposition of the most excellent señor the governor.

SANTIAGO DEL VALLE, *Secretary*.

LEONA VICARIO, 2d May, 1832.

In the town of San Felipe of Austin, the 4th day of the month of October, one thousand eight hundred and thirty-three.

I, Luke Lesassier, constitutional alcalde of this town and its municipality, in use of the faculties conferred on me by the supreme government of the State, by decree made in Leona Vicario, the 2d day of May of the past year of 1832, inserted in — leaf of this despatch, and in attention to the sale authorized by said supreme government in favor of the citizens José Maria de Aquirre, Rafael de Aquirre and Thomas de la Vega, to each one of eleven leagues of land, as appears by the superior decree of sale, made in the said city of Leona Vicario, the said 14th day of June of the year 1830, despatched by the secretary of the same supreme government, which, by an authenticated copy, has been presented by his attorney, Samuel M. Williams, entered at leaf — of this despatch, its original being found in the despatch formed in favor of Don José Maria de Aquirre; and in attention to the superior order contained in the referred to decree of the 2d of May of the past year, and that of the most excellent vice governor of the date of the 29th day of the month of January of the present year, circulated by the señor the political chief of this department, on the 19th day of February past, declaring to remain without effect the proceedings dictated by the supreme government of the State, by which the citizens to whom lands have been conceded cannot take possession of them until the designation of the commissioner general of the nation, which ought to have been made, is verified; and the eleven leagues demanded by the interested party not belonging to any points conferred on the federation by the referred to order; and in view of the approbation given by the empresarios, Austin and Williams, inserted in the reverse of the first leaf of this despatch, the land belonging to the empresa of said empresarios, in conformity to the law of colonization of the State, of the 24th day of March, 1825; and in the name of the State, I confer and put in possession, real, actual, corporal, and virtual, the aforesaid attorney of Don Thomas de la Vega, of the eleven leagues of land, the same which he asks, and which the government sold him, upon the river Brazos, the situation, boundaries, limits, and corners of which are set out on the notes of survey arranged by the scientific and principal surveyor, Francis W. Johnson, in two leaves and the reverse of this despatch, with the configuration which the map annexed shows—the said lands which

by said note of survey appear to be of the class of temporal in one league and a half, and of that of grazing in nine and one half leagues—I, the aforesaid alcalde and commissioner, in use of the faculty which the law gives me, declare and classify, according to which he ought to pay to the State the amount of one thousand one hundred and seventy-five dollars, according to the provision of article twenty-four of the referred to law of colonization of the date of the 24th day of March, 1825, and at the periods designated in article twenty-two of the same law, under the penalty established by the same. Therefore, using the faculty conceded to me, by the referred to decree of the supreme government of the State, and the other disposition of the same government on the subject by the law and consequent instructions which govern me, I despatch the present title, and command that a testimonio of it be taken and delivered to the interested party, so that he may possess and take the fruits of the land which has been sold to him *him*, his sons, heirs, and successors, or whom of him or of them shall have cause or right in representation, for such is the will of the State.

This given in said town of San Felipe of Austin, the date above, which I sign with witnesses of assistance; in conformity to law.

L. LESASSIER.

Of ass. HORATIO CHRISMAN,

Of ass. ROBERT PEEBLES.

CIRCUIT COURT OF THE UNITED STATES,

Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I certify the foregoing to be a true and correct copy of the translation on file in the case of Jno. W. Lapsley *vs.* E. Spencer, No. 2,452 of the docket.

Attest: New Orleans, January 6, 1858.

J. W. GURLEY, *Clerk.*

WASHINGTON, D. C., *January 19, 1858.*

It is hereby agreed between the counsel, plaintiff in error, and the counsel for the defendant, in the case of Eliphas Spencer *vs.* John W. Lapsley, No. 55 on the docket of the Supreme Court of the United States, that the foregoing and within copy, certified by J. W. Gurley, clerk of the circuit court of the United States in New Orleans, is rightfully, and is hereby declared, a part of the record in said court, and that the same shall be filed and considered as part of the bill of exceptions in said record, at page 23.

J. P. BENJAMIN,

For Plaintiff in Error.

ROB. HUGHES,

For Defendant in Error.

Filed January 22, 1858.

Supreme Court of the United States.

ELIPHAS SPENCER, plaintiff in error, }
 vs. } December term, 1857.
 JOHN W. LAPSLEY.

In error to the circuit court of the United States for the eastern district of Louisiana.

This cause came on to be heard on the transcript of the record from the circuit court of the United States for the eastern district of Louisiana, and was argued by counsel. On consideration whereof, it is now here ordered and adjudged by this court that the judgment of the said circuit court in this cause be and the same is hereby affirmed with costs.

FEBRUARY 25, 1858.

I, William Thos. Carroll, clerk of the Supreme Court of the United States, do hereby certify that the preceding printed pages, numbered from one to forty-one inclusive, contain a true copy of the transcript of the record filed in said Supreme Court by Eliphas Spencer, the appellant in the above entitled case, on his appeal in said case; and that the preceding manuscript page contains a true copy of the judgment of said Supreme Court in said case, as the same remains on the records of said court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at the city of Washington, this 15th day [L. S.] of May, A. D. 1858.

WM. THOS. CARROLL,
Clerk of Supreme Court of United States.

Minutes, April term, 1856.

NEW ORLEANS, FRIDAY, JUNE 6, 1856.

Court met pursuant to adjournment.

Present: Hon. J. A. Campbell, presiding judge; Hon. Theodore H. McCaleb, district judge.

JOHN W. LAPSLEY }
 vs. } No. 2458.
 D. R. MITCHELL, WARREN, and JAMES DUNN.

The defendants, by their counsel, this day suggested to the court that heretofore, to wit: on or about the 25th day of February, 1855, the plaintiff herein took the deposition *de bona esse* of one James Hewitson, to prove execution of a certain power of attorney purporting to have been executed by Tomas Vega before Juan Gonzales, regidor of Leona Vicario, with José Nazas Ortez and J. McMorale as assisting witnesses, dated the 5th day of May, 1832, authorizing Samuel M. Williams to sell the land in controversy, which said power

of attorney defendants believe to be a forgery, and have so filed their plea by their attorney, which said power of attorney has never been filed among the papers of said cause, although the same constitutes a part of the deposition of the said Hewitson, and that the same is yet in the possession of the plaintiff's attorney; and thereupon moved the court to require and cause the said power of attorney to be regularly filed among the papers of said cause, or to be deposited with the clerk in his special charge and keeping, subject to the inspecting of the parties, that the defendants may have an opportunity of sustaining their plea of forgery aforesaid by procuring witnesses to inspect the said power of attorney. The plaintiff's counsel being present in court, accepted service of this motion, and waived time to show cause.

Minutes, April term, 1856.

NEW ORLEANS, MONDAY, JUNE 9, 1856.

Court met pursuant to adjournment.

Present: Hon. J. A. Campbell, presiding judge; Theodore H. McCaleb, district judge.

JOHN W. LAPSLEY
vs.
D. R. MITCHELL and WARREN. }

The rule herein taken by the defendant upon the plaintiff, to show cause why he should not file the original of a certain power of attorney, having been argued and submitted on a former day, and the court having considered the same, doth now order that the said rule be discharged.

Opinion on rule, delivered June 9, 1856.

JOHN W. LAPSLEY
vs.
MITCHELL and WARREN. } No. 2458.

The motion submitted by the defendant, that a power of attorney from Thomas Vega to Samuel M. Williams, which forms a document in the title of the plaintiff, may be deposited in court to enable him to impeach its integrity, has been considered by the court.

It does not appear that the defendant claims under the donor of that power. But from the information the court has on this subject, the defendants claim adversely to the grant to De la Vega, and deny its validity.

This is not such a case as a court of chancery would exert the power asked for.

Have an dis.: 199,200, and therefore the power is not conferred by the act of Congress upon this court.

J. A. CAMPBELL,
Associate Justice Supreme Court United States.

CIRCUIT COURT OF THE UNITED STATES,
Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I, John W. Gurley, clerk of said court, do hereby certify the foregoing three (3) pages contains three entries from the minutes of this court in the case entitled "John W. Lapsley *vs.* D. R. Mitchell, Warren, and James Dunn, No. 2458;" also, true copy of opinion delivered June 9, 1856, on file in this office.

Witness my hand and the seal of said court at New Orleans, this twenty-fourth (24th) day of October, 1857.

J. W. GURLEY, *Clerk.*

By A. LAVISSON,
Deputy Clerk.

I, Theodore H. McCaleb, United States judge for the eastern district of Louisiana, do hereby certify that John W. Gurley and A. Lavisson, whose names are signed to the above certificate as clerk and deputy clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana were, at the time of signing said certificate, and are now, the clerk and deputy clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to their official attestations as such clerks.

Given under my hand and seal, at the city of New Orleans, in said [L. s.] district, this 24th day of October, A. D. 1857.

THEO. H. McCALEB,
United States Judge.

Caption.

THE UNITED STATES OF AMERICA, *district of Texas.*

JOSEPH UFFORD
vs.
 JOSIAH DYKES *et al.*

Be it remembered, that heretofore, to wit: on the twentieth day of January, in the year of our Lord one thousand eight hundred and fifty-one, came the plaintiff herein, by Ebenezer Allen, and William P. Hale, and F. H. Merriman, and M. M. Potter, his attorneys, and filed his petition, which is in the words and figures following, that is to say:

Petition.

DISTRICT COURT OF THE UNITED STATES, }
District of Texas. } To April term, 1851.

To the honorable John C. Watrous, judge of the district court of the United States, having and exercising all the powers and jurisdiction of a circuit court of the same, for the district of Texas:

The petition of Joseph Ufford, who is a resident of the county of Fairfield, in the State of Connecticut, complaining against Josiah

Dykes, John Dawson, James Dawson, Isaac Garner, Obadiah Cook, Thomas Gardiner, Charles C. Cook, William B. Covington, Samuel Dawson, Gabriel Choate, William McFadden, Riley Dawson, and Absalom Jett, hereinafter called the defendants hereto, all of whom are residents of the county of Williamson, in the State of Texas, and citizens of the said State of Texas, respectfully represents unto your honor, that heretofore, to wit: on the 20th day of September, A. D. 1850, your petitioner was seized and possessed in his demesne, as of fee and right, of a certain tract of land, situate in the said county of Williamson, in the said State of Texas, lying on both sides of the river or creek called the San Gabriel or San Javiel, and on both sides, also, of Williamson's creek, and bounded as follows, to wit: Beginning at the northeast corner of the tract of land surveyed for Pedro Zarza, and the southwest corner of the tract surveyed for Miguel Davilla, thence south 20° west along the western boundary line of the land of the said Zarza, crossing the said Williamson's creek, and the said river or creek called the San Gabriel or San Javiel, twelve thousand five hundred varas to the second corner of this tract; thence running north 70° west twenty thousand varas to the third corner; thence running north 20° east twelve thousand five hundred varas to the fourth corner; thence south 70° east twenty thousand varas to the place of beginning; including within these bounds two hundred and fifty millions of square varas, or ten sitios or square leagues of land, more or less. And while your petitioner was so seized and possessed as aforesaid of the said tract of land, the said defendants, with force and arms, and with common intent to injure him, on the day and year aforesaid, broke and entered the close of your petitioner, to wit: the said tract of land, and then and there ousted and ejected your petitioner therefrom, and have since remained in possession thereof, receiving and taking the profits therefrom to the value of five thousand dollars by the year; and other wrongs then and there did and committed against the peace of the said State of Texas, and to the damage of your petitioner twenty thousand dollars.

Wherefore your petitioner prays your honor to cause the said defendants to be cited to appear at the next term of this honorable court, to be holden at the city of Galveston on the first Monday of April next, to answer to the premises, and that your petitioner may then and there have judgment for his damages aforesaid and costs of suit, and may recover possession of his said tract of land.

ALLEN & HALL,	} <i>For Plaintiffs.</i>
F. H. MERRIMAN,	
POTTER & POTTER,	

Verdict.

[Endorsed.] We, the jury, find a verdict for the plaintiffs for the ten leagues of land described in the plaintiff's petition, and also ten cents damages. March 10, 1854.

EDWIN SHEARER, *Foreman.*

Translated copy of plaintiff's title.

20.

Title in favor of Rafael de Aguirre for eleven leagues of land, ten of which are situated on San Javiel and Williamson's creeks, and one league on Cow bayou, west side of Brazos; issued by L. Lesassier, alcalde of San Felipe, October 22, 1849.

Written in pencil: "This is the genuine title to Rafael de Aguirre; the name of Perfecte Valdez inserted through mistake."

J. P. B.

Also in pencil: "See Mr. Berdere's letter, file 3636." Refer to title of Rafael de Aguirre, on west of Brazos.

Note.—The above is a true copy of the memoranda attached to the title.

Third seal, four reals.

Qualified by the State of Coahuila and Texas, for the years of 1832 and 1833.

LESASSIER.

Paid by the party interested, in the receiver's office of my charge, four reals, cost of the foregoing seal. Town of Austin, October 2 1833.

SAMUEL M. WILLIAMS.

TOWN OF AUSTIN, October 4, 1833.

Mr Alcalde of the town of Austin:

The citizen Samuel M. Williams, attorney of the citizen Rafael de Aguirre, native of the city of Leona Vicario, in so far as permitted in law, and with the usual and necessary declarations, I present myself before you, saying: That my principal obtained a right, according to article 24th of the colonization law of the State, of the 24th March, 1825, to eleven leagues of land, which the supreme government of the State granted to him, in sale dated June 14, 1830, according to the document accrediting it, herewith accompanying, issued from the office of the secretary of the same supreme government. I supplicate you to be pleased to order that personal title of possession be given me of eleven leagues, in favor of said citizen Rafael de Aguirre, in the form following, to say: Ten leagues of land in the creek San Javiel, adjoining and south 20° west of a tract of eleven leagues surveyed for the citizen Miguel Davilla, on the right margin of the river San Andres, and one league to adjoin with the league of Pedro Zarza, situated on the creek called "Cow bayou," on its southeast side, within the limits of the colony of the señors empresarios Austin and Williams, they giving their approbation, in the understanding that the supreme government of the State has given you powers to give the possessions, in favor of the citizen José Ma. de Aguirre and associates, which order bears date 2d of May of

the past year of 1832. I supplicate you to be pleased to order all that may be conducive to the interest of my principal, according to the provisions of the law, and to comply with the other requisites of the same, wherefore I ask and supplicate you to be pleased to attend to this solicitude, in which I shall receive favor and justice.

SAMUEL M. WILLIAMS.

TOWN OF SAN FELIPE DE AUSTIN,

October, 1833.

Being presented and admitted as he asks, let it be passed to the señors empresarios Austin and Williams, that they may manifest their wish relative to this petition, and they giving their approbation, let it be passed to the scientific and principal surveyor, Francis W. Johnson, that the surveys be made of the eleven leagues denounced by the attorney of Rafael de Aguirre, that, in view of them and of the classification he shall make, conformably to the law, the corresponding titles will be extended by attaching the original document of the government, to which he refers ; thus I ordered and signed.

LESASSIER.

TOWN OF SAN FELIPE DE AUSTIN,

October 5, 1833.

Using the powers which are granted to me by the laws, and conformably to article 9 of the contract we have celebrated with the supreme government, we approve the denouncement made by the attorney of Don Rafael de Aguirre of eleven leagues of land, as is manifested in the foregoing representation, they being entirely vacant.

SAMUEL M. WILLIAMS,

For himself, and as attorney of Don Stephen F. Austin.

Mr. Alcalde and Commissioner :

The lands that I have surveyed for the attorney of the citizen are situated in the form following, to wit : Ten leagues on the creek San Javiel and that called Williamson's creek, and adjoins with the lands surveyed for Miguel Davilla and Pedro Zarza, and one league situated on a creek, a branch of that called Cow bayou, and adjoins with lands surveyed for Juan José Acesta and José Antonio Manchaca. The boundaries, lines, limits, and land marks of the first aforesaid ten leagues of land are as follows : Began the survey at the point where was formed the angle of the northwest corner of the land of Pedro Zarza, and that of the southwest corner of that of Miguel Davilla, at a mound of earth which serves as a landmark of said lands, and also for the first of the land of the party interested ; ran a line south 20° west, following the western boundary of the land of Zarza, and at 4,800 varas crossed Williamson's creek, and at 9,100 varas crossed San Javiel creek, and at 10,909 varas intersected the southwest corner of said land of Zarza, and at 12,500 varas planted a stake in a mound of earth raised in the prairie for the second corner of the land of the party interested ; from this point ran a line north 70° west, 20,000

varas, where was planted another stake in a mound of earth for the third corner; from this point ran another line north 20° east, 12,500 varas, crossing San Javiel and Williamson's creeks, and was planted another stake in a mound of earth for the fourth corner; from this point followed course south 70° east, 20,000 varas, until closed at the place of beginning, and comprises a plain area of 250,000,000 square varas, or ten leagues. The boundaries, limits, lines, and landmarks of the second tract of one league are as follows: Began the survey at the southwest corner of a tract of land of two leagues, on the right margin of the river Brazos, and on the creek Cow bayou, surveyed for Juan José Acesta, which is a stake on the upper boundary of four leagues of José Antonio Manchaca, from which, 14 varas north 47° east, there is a cedar 5 inches in diameter, and 9 varas south 32° west there is an elm 6 inches in diameter; ran a line south 62° west, 10,000 varas, planted a stake on said boundary for the second corner; from said point ran a line north 28° west, 2,500 varas, to the southwest corner of a league of Pedro Zarza; from said point course north 62° east, and followed the southeast boundary of said league 10,000 varas to the southeast corner on the southwest boundary of the land of Acesta, and from this point course south 28° east, 2,500 varas, until closed at the place of beginning, and comprising a plane area of one league of land; completing the survey of the eleven, of which two leagues are of temporal class, and nine leagues of that of pasture, according to my faithful knowledge and understanding, and its configuration is that which is shown in the accompanying map.

F. W. JOHNSON.

LEONA VICARIO, *June 14, 1830.*

MOST EXCELLENT SEÑOR GOVERNOR: The citizen licenciado, José Maria de Aguirre, Rafael de Aguirre, and Tomas de la Vega, to your excellency, with due respect, make known: That, permitted by its colonization law, in the manner and form prescribed in its art. 24, to acquire vacant lands by purchase from the State, your excellency will be pleased to grant to each one of the petitioners eleven leagues of pasture, on the San Antonio river, or in whatever other vacant place may to them be more convenient, all the leagues we petition to purchase being all in a body, or in divers sections, according to our wishes and election, promising to satisfy the price therefor in the terms designated by the law, and to comply with all the other obligations, which, as purchasers, correspond to us. We petition your excellency to be pleased to accede our petition, in which we will receive grace and favor.

JOSÉ MARIA DE AGUIRRE,
RAFAEL DE AGUIRRE,
TOMAS DE LA VEGA.

LEONA VICARIO, *June 13, 1830.*

Conformably to article 24 of the colonization law of the 24th March, 1825, I grant in sale to each one of the petitioners the eleven leagues they solicit, in the vacant lands of the State, in the place that it may best suit them, after demarcation being made by the commissioner of the supreme general government of reserves, sufficient for the payment of what the State owes the federation. The constitutional alcalde of the municipality, to which the aforesaid lands pertain, will put them in possession of said leagues, and will issue the corresponding titles, previously classifying the class and quality of them, for the indication of what they should satisfy the State, for which payment I grant them the terms designated in article 22 of said law. Let there be given from the secretary's office to the parties interested a copy of their petition, and this decree, that, by having recourse with it to the commissioner, the consequent effects may result. A copy of its original which exists in the archives of the secretaryship in my charge, to which I refer, from where it was ordered to be taken by disposition of the most excellent señor governor.

SANTIAGO DEL VALLE, *Secretary.*

The citizen, Luke Lesassier, sole alcalde of the municipality of Austin:

I certify, so far as I can, and am permitted by law, that the foregoing document is a copy of the original, which has been presented to me by the citizen Samuel M. Williams, attorney of the citizens, J. M. de Aguirre, Rafael de Aguirre, and Tomas de la Vega, which I have taken at his verbal request, and which I give for the corresponding uses and ends, and sign, with two witnesses of assistance, as prescribed by law. I certify: Town of San Felipe de Austin, 6th day of the month of September, 1833.

L. LESASSIER.

Assisting:

HORATIO CHRISMAN,
ROBERT PEBLES.

LEONA VICARIO, *May 2, 1832.*

MOST EXCELLENT SIR: The citizen José Maria de Aguirre, for himself, and in the name of those of the same class, Thomas Vega and Rafael Aguirre, before your excellency, with the greatest respect, says: That having solicited from this government, in the year 1830, to grant us in quality, as company, the leagues of vacant land of the State which can be granted in sale to Mexicans; and feeling no embarrassment whatever in this solicitation the same government was pleased to accede to it, giving its consent on the 14th June of the same year of 1830, that so soon as the federation should have taken the lands that it then claimed to have purchased from the State, the possession of the leagues granted to us should be given to us by the alcalde or alcaldes in whose jurisdiction they may exist. It appears now time to be able to proceed without obstacle to receive the land for which

we have contracted in class of sale, and as it might happen that it corresponds to some one of the enterprises of colonization, and for the corresponding partition of lands, this government should appoint its commissioner of surveys. I petition your excellency to be pleased to resolve, that the alcaldes before whom we shall present ourselves to give us the possession of the leagues we have chosen, as well as in his case the commissioner of surveys be able to do it, to avoid any inconveniences that might impede the possession which we solicit. I supplicate your excellency to be pleased to decree conformably in which I shall receive justice.

JOSÉ MARIA DE AGUIRRE.

LEONA VICARIO, *May 2, 1832.*

In view of the foregoing solicitude, and conformably with the disposition of the government in order passed to the chief of the department of Bexar on 23d of June, 1830, I have appointed the commissioner for the partitioning of lands in the enterprise to which the leagues granted may pertain, that he may give the possession of the lands indicated in this petition to the petitioner and his associates; and in case they do not pertain to any enterprise, the first or sole alcalde of the respective municipality, or the one nearest, that he may give according to the instructions and orders which govern relative to the matter, proceed to give the indicated possessions.

Let there be given from the secretaryship to the party interested copy of his petition and this decree, that the consequent effects may result, attaching the original to the document of concession.

LETONA.

SANTIAGO DEL VALLE, *Secretary.*

LEONA VICARIO, *May 22, 1832.*

A copy of the original which exists in the archives of the secretaryship of my charge, from whence it was ordered to be taken by disposition of the most excellent señor governor.

SANTIAGO DEL VALLE,

Secretary.

The citizen Luke Lesassier, sole alcalde of the municipality of Austin.

I certify, in so far as I am able, and am permitted by law, that the foregoing writing is a literal copy of its original issued from the secretaryship of the supreme government, which was ordered to be taken at the verbal solicitation of the party, and it was given to him for the ends that may suit him.

Given in the town of San Felipe de Austin, on the 6th day of the month of September, 1833, which I sign, with witnesses of assistance, conformably to the law. I certify.

L. LESASSIER.

Assisting: HORATIO CHRISMAN,
ROBERT PEEBLES.

Third seal, four reals.

Qualified by the States of Coahuila and Texas, for the years of 1832 and 1833.

LESASSIER.

TOWN OF AUSTIN, *October 2, 1833.*

Paid by the party interested, in this receiver's office of my charge four reals, cost of the foregoing seal.

SAMUEL M. WILLIAMS.

In the town of San Felipe de Austin, on the 22d day of the month of October, in the year 1833, I, the citizen Luke Lesassier, constitutional alcalde of this town and its municipality, in the use of the powers which the supreme government of the State has conferred on me, by decrees dated in Leona Vicario the 14th of June, 1830, and 2d of May of the passed year, and in attention of the sale granted by the said supreme government in favor of the citizen Rafael Aguirre, citizen of the said Leona Vicario, of eleven leagues of land, as appears from the superior decree, dated in the said Leona Vicario on the aforesaid 14th of June, 1830, presented by his attorney, the citizen Samuel M. Williams, placed at the third and following pages of this document, and in attention to the superior order of the most excellent señor vice governor, dated on the 29th of the month of January of the present year, circulated by the chief of this department on the 19th of the past year, declaring to be without effect the decrees dictated by the supreme government of the State, relative to citizens who have been granted lands, and could not take possession of them until the indication that was to be made by the commissioner general of the nation be verified, and the eleven leagues denounced by the party interested not pertaining to any of the places conferred to the federation by the said order. And in view of the approbation granted by the empresarios, Austin and Williams, placed at the second page of the first folio to this document, corresponding with the lands of the enterprise of said empresarios, in conformity with the colonization law of the State, of 24th March, 1825 ; and, in the name of the State, I confer and put in possession, real, actual, corporal, and virtual, to the aforesaid attorney of the citizen Prefecto Valdez, of eleven leagues of land, the same for which he asked, and which the government sold him in San Gabriel creek and Corn bayou, whose situation, boundaries, limits, and landmarks are given in the notes of survey made by the scientific and principal surveyor Francis W. Johnson, in pages two and three of this document. With the confirmation shown in the map attached, the aforesaid leagues, which by said notes of survey appear to the surveyor to be of temporal in two leagues, and of pasture in nine leagues, I, the aforesaid alcalde and commissioner, in use of the power given me by the law, thus declare and classify it, according to which he should satisfy the State in the sum of one thousand and two hundred dollars, as manifested in article 24th of the

aforesaid law of colonization, dated 24th of March, 1825, and in the terms designated in article 22 of the same law, and under the penalties therein established: remaining notified that within one year he shall construct permanent landmarks in each angle of the lands; that he should cultivate them in conformity with what is determined in said law; that he will scrupulously comply with what is ordained in it, and in others.

Therefore, using the powers which are given me by the said decrees of the supreme government of the State, and the other dispositions of the same government in the matter by the law, and consequent instructions which govern me, I issue the present title, and order that a testimonio of it be taken, and be delivered to the party interested, that he may possess, use, and enjoy the land which has been sold to him, he, his heirs, and successors, or whoever of him or of them shall have cause, or represent action or right, for such being the will of the State.

Given in the said town of San Felipe de Austin, dated *ut supra*, which I sign with witnesses of assistance, as provided by law.

L. LESASSIER.

Assisting: ROBERT PEEBLES.

Assisting: C. C. GIVENS.

GENERAL LAND OFFICE, }
The State of Texas. }

I, John Buchanan, translator and recorder of Spanish deeds in the general land office of said State, bonded and sworn, certify the foregoing to be a correct translation of the papers of the title of Rafael de Aguirre, on file in said office, city of Austin, January 20, 1855.

JOHN BUCHANAN, *Translator*.

GENERAL LAND OFFICE, }
The State of Texas. }

I, Stephen Crosby, commissioner of the general land office of said State, certify that John Buchanan is translator and recorder of Spanish deeds in said office, bonded and sworn, and that the foregoing is a correct translation of the papers of the title of Rafael de Aguirre, on file in said office.

[L. s.] In testimony whereof, I have hereto set my hand, and have caused the seal of said office to be affixed, this January 20, 1855.

S. CROSBY, *Commissioner*.

Judgment.

JOSEPH UFFORD }
vs. }
JOSIAH DYKES *et als.* }

On this day came the parties by their attorneys, and the jury empannelled to try the issue joined between the plaintiff aforesaid and

the defendants, John Dawson, James Dawson, Samuel Dawson, Riley Dawson, and William B. Covington, having, on the twenty-seventh day of February, A. D. 1855, being a day of the present term of this court, returned a verdict, as follows, to wit: "We, the jury, find for the plaintiff against John Dawson, James Dawson, Samuel Dawson, Riley Dawson, and William B. Covington, and assess his damages at one cent—J. E. Haviland, foreman;" and the jury empannelled to try the issue between the plaintiff and the defendants, Josiah Dykes, Obediah Cook, Charles C. Cook, Thomas Gardiner, Isaac Garner, and Gabriel Choat, having, on the twenty-first day of March, A. D. 1855, being a day of the present term of this court, returned a verdict, as follows, to wit: "We, of the jury, find for the plaintiff the land described in his petition, and assess his damages at one cent; and also find that Josiah Dykes, Isaac Garner, Obediah Cook, Thomas Gardiner, Charles C. Cook, and Gabriel Choat, the defendants in this suit, entered upon the land in bad faith, and are not entitled to pay for improvements—B. P. Buckner, foreman." It is therefore now here considered by the court that the said plaintiff, Josiah Ufford, recover of and from the defendants herein, Josiah Dykes, Isaac Garner, Obediah Cook, Thomas Gardiner, Charles C. Cook, Gabriel Choat, John Dawson, James Dawson, Samuel Dawson, Riley Dawson, and William B. Covington, the ten leagues of land described in his petition, to wit: Ten leagues of land situate in the county of Williamson, State of Texas, lying on both sides of the river or creek called the San Gabriel or San Javiel, and on both sides of Williamson's creek, and bounded as follows, to wit: Beginning at the northwest corner of the tract of land surveyed for Pedro Zarza, and the southwest corner of the tract surveyed for Miguel Davilla; thence south 20° ; thence along the boundary line of the said Zarza tract and survey, crossing the said Williamson's creek, and the said river or creek called the San Gabriel or San Javiel twelve thousand five hundred veras to the second corner of this tract; thence running north 70° west twenty thousand varas to the third corner; thence running north 20° east twelve thousand five hundred varas to the fourth corner; thence south 70° east twenty thousand varas to the place of beginning, including within these bounds two hundred and fifty millions of square varas or ten sitios or leagues of land, more or less; and that the plaintiff recover of and from said defendants, Josiah Dykes, Isaac Garner, Obediah Cook, Thomas Gardiner, Chas. C. Cook, Gabriel Choat, John Dawson, James Dawson, Samuel Dawson, Riley Dawson, and William B. Covington, one cent, his damages by the jurors aforesaid assessed, and also the sum of two hundred and twenty-five dollars and eighteen cents, his costs about his suit in this behalf expended. And the said plaintiff praying for a writ of possession, to the marshal of this district to be directed, to cause him, the said plaintiff, to have and be put in possession of his aforesaid land, to him the said it is now hereby accordingly granted.

THE UNITED STATES OF AMERICA, }
District of Texas. }

I, James Love, clerk of the district court of the United States for the district of Texas, setting at Galveston, certify the foregoing to be a true copy of the petition, translated copy of the testimonio of title and judgment in the case of Joseph Ufford *vs.* Josiah Dykes *et als.*, No. 358 on the law docket of said court, containing 16 pages.

In testimony whereof, I hereunto set my hand and affix the seal of
 [SEAL.] of said court. Done at the city of Galveston, this twenty-seventh day of November, A. D. 1856.

JAMES LOVE, *Clerk.*

THE UNITED STATES OF AMERICA, *District of Texas.*

JOSEPH UFFORD }
 vs. } Law No. 358 ; bill of exceptions No. 1.
 JOSIAH DYKES *et al.* }

Be it further remembered that the plaintiff then, as rebutting evidence, introduced Samuel M. Williams, and when said Williams was about to testify the counsel for defendants objected to all evidence proposed to be given by said Williams, conducing to prove a mistake in the issue of the title of possession at the mouth of the Bosque, but the court overruled said objection, to which ruling of the court, at the time, and before the said witness testified, excepted, and said witness thereupon testified as follows :

I was part owner of the concessions to Tomas de la Vega, José Maria de Aguirre, and Rafael de Aguirre for eleven leagues of land each ; at least my money went to pay for them in part ; they belonged, however, principally to Stephen F. Austin. I was the agent, with power to sell and to select and obtain the lands ; besides, I had a general power of attorney from Stephen F. Austin.

Stephen F. Austin went from Mexico to Texas in the Spring of 1833, and did not return until 1835. In the spring of 1833, after Stephen F. Austin's departure for Mexico, I sold the Rafael de Aguirre concession to the agent or representative of Hoxie & Co., or the Alabama company, as it was sometimes called ; that agent or representative was Robert M. Williamson. He was authorized by me to designate the lands, and to obtain the title in whatever place he might select. I have no personal knowledge as to the place at which he made the selection. It was the custom or practice of the colony to have the surveying done in the fall, winter, and spring, and returned to the office. It was done under witness's general direction. The field notes were taken down by the surveyors in English, were by witness then translated into Spanish, and then signed by the principal surveyor. The principal surveyor of the colony of Austin and Williams was Francis W. Johnson, and he signed the field notes of the work which was done by his deputies, as well as that which was done by himself. The surveys were made in advance or anticipation of ap-

plications, and claimants for land came to the office and made their selections there. This was the general practice. Have known of but very few instances where the parties went upon the land and selected it, or had it specially surveyed for them. The grants to Tomas de la Vega, José Maria de Aguirre and Rafael de Aguirre were written out by myself, and executed by the alcalde, Luke Lesassier, in blank ; that is, with blanks for the names of the grantees. The last time I saw them before the revolution, they were in that condition in the office. It was the latter part of September, or first of October, 1833. About that time hearing of the death of John Austin in Brazoria, I went down there from San Felipe, and did not return until the latter part of October. My attention was never again called to the subject of these titles until after the revolution, when I was called upon to correct what I regarded as an error in filling of them up. If it had not been for the disturbances which took place shortly afterwards, I would have filled up the grants and returned them to the alcalde, that he might issue the proper titles to the parties. I presume they were filled up when they came to be returned to the land office. Spencer H. Jack attended to the business of the office in my absence. He was reasonably well acquainted with the Spanish language. With a little assistance could get along in the preparation of titles in that language. Witness generally prepared the titles—prepared them in blank ; they were signed by the alcalde in blank and returned to the office, where they were filled up as parties applied for them, after which they were again returned to the alcalde. This was the practice not only in that colony, but in all the colonies. The alcalde, Luke Lessassier, did not understand Spanish. The Jos Maria Aguirre concession was not sold, and belongs, if to anybody, to the heirs of Stephen F. Austin. The Tomas de la Vega was sold. I never designated any land to which the Rafael de Aguirre concession should be applied. Nor did I select any land to which the concession of José Maria Aguirre should be applied.

Be it further remembered that, after the evidence had all been introduced, as hereinbefore stated, the defendants requested the court to instruct the jury as follows, to wit :

1st. That though the defendants may be mere intruders or trespassers, it is competent for them to show by proof that the plaintiff's title is void, or to show an outstanding superior title in another, under whom said defendants do not claim.

Which the court gave.

2d. If it appear from the evidence that the concession from the governor of Coahuila and Texas, by virtue of which plaintiff's grant was issued, had been located, surveyed, and granted on other lands prior to the grant of plaintiff, then plaintiff's grant is void, though it may be proved that the first grant was made through mistake.

Which the court refused to give, but gave with the following addition : " Unless there is found in the case testimony which connects itself with the title, and shows the mistake, and shows how the mistake may be corrected." To which addition the defendants, at the time, and before the jury retired, excepted.

3d. In the absence of satisfactory proof to the contrary, the title papers to the first grant prove that the land on the Bosque was selected by Rafael de Aguirre, by his attorney, and the title thereto issued to him at his request and instance.

Which the court refused to give, but gave with the following addition : "The jury will not confine their inquiries to this point alone, but, in deciding whether the grant was made to Rafael de Aguirre, will look into all the testimony which is before them upon that point." To which addition the said defendants, at that time, and before the jury retired, excepted.

4th. That the defendants are not required to prove that they are not on the land.

Which the court refused to give, to which ruling the defendants, at the time, and before the jury retired, excepted.

The court then instructed the jury as follows, at the request of plaintiff's counsel :

1st. That the title or grant issued to Rafael de Aguirre, and introduced in evidence by the plaintiff, is, on its face, a valid title, and appropriates the land described in it. That the conveyances from Rafael de Aguirre, by his attorney, Samuel M. Williams, to Asa P. Ufford, and from Asa P. Ufford to Joseph Ufford, introduced in evidence by the plaintiff, are competent and sufficient in law to convey the title of Rafael de Aguirre, acquired under the grant aforesaid to the plaintiff.

2d. That the title purporting to be made to the attorney of Rafael de Aguirre for land on the Brazos, *at the mouth of the Bosque*, introduced in evidence by the defendants, shows that a title was made which took effect, if at all, by relation, on *the 4th day of October, 1833*; and as the title introduced in evidence by the plaintiff took effect on the same day, the jury will determine from the evidence which was the title intended to be issued on the concession to Rafael de Aguirre.

3d. That if the jury are satisfied from the evidence that the title to the land on the Brazos, *at the mouth of the Bosque*, was made out by mistake, and never, in fact, delivered or issued to the interested party and accepted by him, and that it was not, at any time, the intention of the alcalde and the party interested that the land on the Brazos should be granted to Rafael de Aguirre on the concession issued to him, then the jury may disregard that title.

4th. That to make a title or grant binding on the party interested, it must have been made at his instance, or accepted by him, or a copy or testimonio must have been issued and delivered to him, and accepted by him ; and, unless the jury are satisfied from the evidence that the person interested under the concession made to Rafael de Aguirre, was apprised that a title had been made on such concession for land on the Brazos, and that he assented thereto, or accepted the testimonio as his evidence of title, the jury need not take that title into their consideration.

5th. That in no case can a grant valid on its face be attacked or impeached by a third party, a mere intruder or squatter, except for want of authority in the officer making the grant, or fraud in the

party interested in obtaining it; that by want of authority is here meant a general want of power to make grants of like description with that given in evidence, and not a want of authority on account of the customary prerequisites to make the particular grant; and by fraud in the party interested is meant actual personal fraud, and not implied or constructive fraud. Such fraud is not to be presumed, but the particular facts showing it must be proved, so as to satisfy the jury that some particular person or persons actually and knowingly perpetrated it.

6th. That it is not necessary for the plaintiff, in the first instance, to prove that the defendants sued, and who plead not guilty, committed the trespass complained of; and if the plaintiff shows a good title to the land sued for, he is entitled to a verdict against defendants, who plead not guilty, and show no title or right of possession, and who do not prove that they were, at the time of bringing the suit, outside of the boundaries of the land sued for.

To which instructions, and to each of them separately, the defendants, at the time, and before the jury retired, excepted.

Bill of exceptions No. 2.

JOSEPH UFFORD	}	Law No. 358.
vs.		
JOSIAH DYCKES <i>et als.</i>		

The plaintiff then, as rebutting evidence, introduced Samuel M. Williams, and when said Williams was about to testify, the counsel for defendants objected to all evidence proposed to be given by said Williams, conducing to prove a mistake in the issuance of the title of possession, *at the mouth of the Bosque*; but the court overruled said objection, to which ruling of the court the defendants excepted at the time, and the said witness testified as follows, to wit:

Testimony of Samuel M. Williams.

I acted as the attorney of Rafael de Aguirre, José Maria de Aguirre, and Tomas de la Vega, and held their powers of attorney. Stephen F. Austin was interested in the grants; that is, in the concessions made by the governor of the States of Coahuila and Texas to them. I sold the concession of Rafael de Aguirre to the agent and representative of Edward Haurick, and authorized him to make the selection of the land where he pleased. We had not heard of the Alabama company then, or Hoxie & Co. until afterwards. That agent was Robert M. Williamson. I never personally made a selection or designation of particular land, to be appropriated to the concession of Rafael de Aguirre. I never made a selection to be applied to that concession at all. I never made the selection of eleven leagues on the Brazos, at the mouth of the Bosque. I never received or authorized to be issued a title to myself, as attorney of Rafael de Aguirre, to land *at the mouth of the Bosque*.

Stephen F. Austin left Texas in April, 1833, and returned some time in August or September, 1835. He died in December, 1836, or in January, 1837. During his absence, in 1833 and 1834, he was principally in Mexico. I do not know that there was any more than a general acquiescence by Stephen F. Austin in the authorization of Williamson to make the location; he used part of the purchase money himself. I have no recollection of ever having made a conveyance of the eleven leagues on the Brazos, at the mouth of the Bosque, to any one. I never, to my recollection, as the attorney of Rafael de Aguirre, claimed the land on the Brazos as his. In December, 1839, I told John P. Borden, as Commissioner of the General Land Office, that the land on the Brazos, at the mouth of the Bosque, had never been selected by me, and I looked upon it as vacant. I first knew of the title to land to Rafael de Aguirre on the Brazos, at the mouth of the Bosque, in the early part of 1838; cannot recollect whether I was at San Felipe latter part of October, 1833. I left San Felipe in the fall of 1833, upon hearing of the death of John Austin. Rafael de Aguirre and José Maria Aguirre were not in Texas, that I heard of, in the year 1833. The concession to José Maria Aguirre really belonged to Stephen F. Austin in the year 1833. I believe that Stephen F. Austin, after his return from Mexico, in 1835, did engage, to some extent, in settling up and attending to the land matters of the country. I was not in Texas at the time.

Cross-examined.

John Austin died in Brazoria; whether in August or September, 1833, I do not recollect. I went down as much as six or seven weeks after he died—I think about six weeks; remained there a week or ten days, and returned back to San Felipe; remained at San Felipe and about there pretty nearly all the time until sometime in that winter; have no distinct recollection of being at San Felipe until the latter part of October; was not there when the two titles to Rafael de Aguirre were issued. I made no selection of the land on Williamson's creek and San Gabriel; the concession had been sold before. I must have left the petition for land on the Bosque in blank; they were always made in blank. I must have left the petition for land on Williamson's creek and San Gabriel in blank also; that was the usual way of doing business. I made out blank forms, and, when the designation of the land was made, the papers were stitched together, the blanks were filled up, and they were sent to the alcalde for signature. At times the alcalde signed the titles in blank before the field notes were put in. The blanks in neither of these titles were filled up by me; I was not present when they were filled up; my recollection is that they were left in blank.

I was not in Texas when Stephen F. Austin returned from Mexico; I saw him at the mouth of the Brazos in 1836; met him in New Orleans and saw him in Kentucky same year; never saw him at San Felipe after he left for Mexico in 1833; he had charge of the land office during my absence in 1835 and 1836; never had any conversa-

tion with him as to these titles, except at the mouth of the Brazos in 1836; and that was to the effect that I informed him that the concession to José Maria de Aguirre had not been sold, but that the other two had been; and that the purchase money for the concession to Rafael de Aguirre was part of that which he had used in Mexico. I never had any conversation with him as to the granting of the titles of possession.

I cannot recollect precisely whether R. M. Williamson was at San Felipe on the fourth of October, 1833; I presume he was; he resided there and had come up with me from Brazoria a few days anterior to the death of John Austin; he lived about a mile and a half, or a mile and three quarters, from the land office—that is, he lived at San Felipe, and the land office was about that far from San Felipe.

I have no recollection ever to have seen either of these grants after their date and anterior to the revolution. I have seen them since, once, in the possession of Mr. John P. Borden, while he was land commissioner. I do not recollect who gave me the information about the two titles, whether it was Mr. Borden or Mr. Williamson, or some one connected with the matter. It was at Houston, after the opening of the land office in 1838. I did not then see them; I was engaged in other business; I left Texas in July or August, 1835, and returned in May, 1836; left again in July or August, 1836, and returned again in January, 1838; saw Colonel Austin once in the meantime; saw Mr. R. M. Williamson several times; saw him in 1836; do not recollect that he said anything about these titles; we had other things to think about then; had our hands full of Santa Anna. The sale by me to the representative of Mr. Haurick was made in April, 1833. Mr. Haurick resided at Montgomery, Alabama. I do not recollect the name of the gentleman who came from that place representing Mr. Haurick, and who employed Mr. Williamson. Mr. Haurick never did anything himself respecting the issuing of the titles, except paying me for them when I was in the United States. The José Maria de Aguirre concession belongs to the heirs of Stephen F. Austin, if to anybody. William Moore was a deputy surveyor in that district in 1833; spent one surveying season in the early and latter part of that year. F. W. Johnson was principal surveyor. I returned to the United States in 1827, again in 1829, and again in 1833. I left Texas for the United States in May, 1833, and returned sometime in August or September, 1833. It was on my return I saw John Austin, well. The land office was at my house, about a mile and a half from San Felipe. Williamson lived in San Felipe, and was in the habit of being frequently at the land office. Mr. Williamson was living at last accounts; resides in the neighborhood of Independence, in Washington county, of this State. The practice of selecting lands was mostly by the parties calling at the office and selecting the lands after they had been surveyed. At other times the parties went out with the surveyors. I do not recollect to have said, on a former examination, that I never knew of more than two or three instances of parties going out with surveyors to select their lands. The instances

could not be considered numerous, compared with the amount of business that was done. It was at the pleasure of the parties; they had a right to go out if they chose. The general practice was that the surveys were made before hand under my direction. The surveyors could only work in cool weather. They acted under the instructions of myself, the commissioners, (if there were any,) and the alcaldes. I do not know that the particular land was surveyed in this case at the instance of the agent of Haurick. I authorized it to be made whenever he might select it.

Re-examined.

The payment for the concession, or grant as I call it, was made by Mr. Haurick before the title of possession issued. I did not sell the title of possession. I made no transfer or conveyance in writing to Mr. Haurick before the revolution. He was not in the country before the revolution. I do not know whether I had anything to do with the matter after October, 1833, and before the revolution, except an adjustment or settlement with Mr. Haurick in 1833 and in 1834. The understanding was that Mr. Haurick bought the land, and was entitled to control the location; and after the issue of the title of possession I was to make the title according to his direction. I do not know that Asa P. Ufford became interested in the Alabama company. In my absence from San Felipe, Spencer H. Jack superintended the business of the land office.

The defendant's counsel then requested the court to instruct the jury as follows:

1. The grant of eleven leagues of land to Rafael de Aguirre, at the mouth of the Bosque, is a valid title to the land which is described in it, and which it purports to convey; and said grant exhausted the concession to Rafael de Aguirre, and any subsequent grant purporting to be founded upon the same concession is null and void.

2. You will disregard all testimony which was introduced by the plaintiff to prove a mistake in the issuance of the grant at the mouth of the Bosque; and there is no evidence before you of any such mistake, except as to the discrepancy between the dates of the reference of the petition to the empresarios for their approbation and the answer thereto, and the date of the act of the alcalde extending the title and putting the petitioner in possession; and I now instruct you that said discrepancy is immaterial, and that the proper date of said grant, so far as it appears from the evidence, which is the grant itself, is the 4th of October, 1833.

3. If there is any testimony that Rafael de Aguirre, or those claiming under him, did abandon the land embraced in the first grant, such abandonment would not render the second grant good.

4. No relinquishment of the first grant can be presumed, because there was no law authorizing any officer of the government to take or receive such relinquishment in a case of this kind, so far as the circumstances are disclosed by the evidence.

5. The main question in this case is a question of law, and you ought to find for the defendants.

[If the court should decline to give the second charge now asked, (No. 2, above,) then, and not otherwise, we ask the following additional instructions:]

6. In ascertaining whether a mistake was made in the issuance of the grant on the Brazos at the mouth of the Bosque, it is not competent to take conjecture as to a different intention from that shown by the issuance of the said grant, but, to establish a material mistake, there must be evidence in the despatch of said grant; that is, either in the petition to the alcalde, the reference to the empresarios for their approbation, their answer thereto, the report of the survey, or in the extension of the title by the alcalde, which evidence must be clear and decided, and to the entire satisfaction of the jury, that the officer who extended the title—that is, the alcalde—either intended to grant other land instead of that granted, or to insert in said grant the name of José Maria de Aguirre, or some other name, instead of the name of Rafael de Aguirre.

7. The statement in the grant on the Brazos, at the mouth of the Bosque, that Samuel M. Williams, the agent of Rafael de Aguirre, applied for the title of possession, is uncontradicted by anything in the despatch, and was all the assent necessary to be given to the legal issuance and perfection of the title.

Which instructions the court refused to give as asked, and instructed the jury as follows, to wit:

“Let patience have its perfect work,” is one of the injunctions of heavenly wisdom. To no situation in human life is the maxim more needful; to no set of men of more vital importance than to this tribunal. To courts and juries engaged in trying these intricate and heavy land cases, the amount involved is large, very large; the learning necessary to a complete understanding of the principles which govern them is attained only by laborious industry pushing its investigations through various codes of law and systems of jurisprudence unknown to any other section of our country. Foreign to our habits of thought, and clothed in a language not our own, they appeal to the strongest passions of our nature; they smite upon the human heart, and rouse the tides of intense feeling to their profoundest depths; they invade the dearest relations of domestic life, and take hold of all which we hold most precious in home, health, and roof tree. In all countries controversies about the soil are invested with peculiar interest, and in this country more so than in any other. Most of the early emigrants to Texas were the victims of an adverse destiny. They left their own country, driven by a fate too hard to be borne and too stubborn to be conquered. They came with the hope of retrieving their shattered and almost desperate fortunes. Land was the object and condition of their emigration, the end of their hopes, and the means of their advancement and improvement. Thus it is that controversies of this kind are attended with peculiar interest; and when they are about to be decided, the nerve is touched that thrills with acutest sensibility. For these reasons, those of us

to whom is entrusted the settlement of controversies of such high concernment should investigate with patience and decide with caution ; and if we cannot satisfy the parties litigant, we will at least satisfy ourselves.

The grant to Rafael de Aguirre, introduced by the plaintiff, is on its face a valid title, and appropriates the land described in it. The mesne conveyances down to the plaintiff are sufficient to convey the land. There are two titles for eleven leagues of land, each issued to one person. If both titles were good they would take effect from the date of the application to the alcalde. But they are not both good. One is bad for two reasons : First, There was but one concession from the government, and that was a concession of eleven leagues to each of two persons. Second, The law would not permit the *purchase* of more than eleven leagues by one person. The recitals in the titles are all the testimony to show that any application was ever made to the alcalde for titles of possession. That testimony is not sufficient to show that an application was made in both, for both the titles cannot be good. One, as I have shown above, must be worthless. How are the jury to decide between them ? By the examination of the testimony found in the despatch of the title ? If there be any testimony found there touching the question, it must be examined, and by it the question as to which is the true title may be determined. Which ever title is thus ascertained to be the true one will reach back to the date of the application to the alcalde, and the other will be disregarded. If the jury are satisfied, by an examination of the testimony found in the despatch of the title to the lands upon the Brazos, at the mouth of the Bosque, that it was made out by mistake, and never in fact delivered or issued to the party interested and excepted by him, and that it was not at any time the intention of the alcalde and the interested party that the land on the Brazos should be granted to Rafael de Aguirre, on the concession issued to him, the jury will disregard that title.

To make a grant binding on a party it is not necessary that a testimonio should have been issued and accepted by him. His acceptance of the title may be proved by other means, but it must be shown by direct proof or fair implication. The petition of the party, the concession of the government, the survey of the land by his procurement, the record of the grant in the books of the alcalde, are all facts to be taken into consideration. If the particular spot or tract of land mentioned in the petition is conveyed by the grant, the consent of the party to take that spot or tract is sufficiently proved ; but when there is no such identity of the land sought and the land granted, the jury must look into all the testimony upon this point in the case, and if they are not satisfied that Rafael de Aguirre, or those interested in the concession of land made to him, were apprised that a title had been made upon such concession to lands on the Brazos, and did no act by which his or their assent thereto is shown, or an acceptance of said lands in satisfaction of his concession proved, then the plaintiff is not bound by the grant. To establish a different doctrine would be to say that the assent of two minds is not necessary to a

contract. It would put applicants for land into the power of the ministerial officers of the government, who, from caprice, prejudice, or interest, would often defeat the bounty or the justice of the State.

In no case can a grant, valid on its face, be attacked or impeached by a third party except for the want of authority in the officer making the grant, or fraud in the party interested in obtaining it. By want of authority in the officer is here meant a general want of power to make grants of like description with that given in evidence, and not a want of authority on account of the absence of the necessary prerequisites to make the particular grant; and by fraud in the party interested is meant actual personal fraud, and not implied or constructive fraud. Such fraud is not to be presumed, but the particular facts showing it must be proved, so as to satisfy the jury that some particular person or persons actually and knowingly perpetrated it.

If the jury are satisfied from the records of the titles offered in evidence that the title of possession to the lands on the Brazos, at the mouth of the Bosque, was not in fact issued or made on the 4th day of October, 1833, then it is incumbent on the defendants to show when it was in fact made or issued, if they would make use of it; and unless the jury are satisfied from the evidence that the said title was in fact issued or made before the 22d day of October, 1833, they will disregard it altogether.

The jury may look into all the steps and proceedings connected with the titles offered in evidence, and forming a part of such titles, to determine the intention of the parties; and if they are satisfied, by a comparison of all the record testimony in evidence in relation to the titles, that the name of Rafael de Aguirre was inserted by mistake in the title to land on the Brazos, and that it was the intention of all the parties and the officers of the government that José Maria de Aguirre should have been the grantee, then they will not consider that title as interfering in any way with the title offered by the plaintiff to the land on the San Gabriel and Williamson's creek.

The court, then, more directly in reply to the instructions asked for, as hereinbefore stated by the defendants, continued to instruct the jury as follows:

The grant of eleven leagues of land to Rafael de Aguirre at the mouth of the Bosque is a valid title to the land which is described in it, and which it purports to convey, and it exhausts the concession to Rafael de Aguirre, and gives him all the land he is entitled to under the concession, and all which by law he could receive; and any grant made to him at a subsequent time founded upon the same concession is void. But you are at liberty to examine into the despatch of the grant—that is, the application for the land, the concession, the application to the alcalde, the survey, the return of the surveyor, and the grant itself—and if in the despatch you find testimony which satisfies your minds that a mistake has been made in the name of the grantee in the grant of the land upon the Bosque, and testimony which shows what name ought to have been inserted, you will be governed by that testimony; the inquiry must be confined to the despatch of the title, and the parol testimony must be disregarded. If you find by the

testimony that the name of Rafael de Aguirre was inserted in the title to the land upon the Bosque by mistake, and that the name of José de Aguirre should have been inserted as the grantee of that tract, then the concession to Rafael de Aguirre was not fulfilled by that grant, and he may claim under the other grant.

If there be testimony that Rafael de Aguirre, or those claiming under him, abandoned the land on the Bosque after it had been accepted in satisfaction and discharge of the concession to him, such abandonment would not authorize him to claim and obtain land under the second grant. He could abandon the land which he had taken as his under the concession of the government, but that would constitute no claim to other lands.

I know of no provision of the law which authorizes any officer of the government to take a relinquishment of lands once received under concessions by the proper authority, and no such relinquishment can be presumed.

The statement in the grant on the Brazos, at the mouth of the Bosque, that Samuel M. Williams, agent for Rafael de Aguirre, applied for the title of possession, was all the assent necessary to be given to the legal issuance and perfection of the title—that is, in the event that you are satisfied from the testimony in the case that Rafael de Aguirre was the real grantee of the land upon the Brazos at the mouth of the Bosque, and not José Maria de Aguirre, and that the name of Rafael de Aguirre was not inserted in the grant by mistake—the testimony to prove the mistake must be clear, full, and decisive, and altogether satisfactory to the mind.

All which instructions were by the court first reduced to writing, and are now on file among the papers of this case.

THE UNITED STATES OF AMERICA, }
District of Texas. }

I, James Love, clerk of the district court of the United States of America for the district of Texas, sitting at Galveston, certify the foregoing to be true copies of extracts from bills of exceptions Nos. 1 and 2, relating to the testimony of Samuel M. Williams, and the instructions given by the court to the jury in case No. 358, on the said docket of said court, wherein Joseph Ufford is plaintiff, and Josiah Dyckes and others are defendants.

In testimony whereof, I hereunto set my hand affix the seal of said court. Done at the city of Galveston, this 2d day of July,
 [SEAL.] A. D. 1856, and the eightieth year of the independence of the United States of America.

JAMES LOVE, *Clerk.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas, at Galveston.

JOSEPH UFFORD
vs.
 JOSIAH DYKES *et als.* } No. 358.

The parties in the above entitled cause, by their attorneys, agree that the following facts can be proved, and they are thereby admitted to be true, without further proof, to wit: That the full amount due originally to the States of Coahuila and Texas for the purchase of the ten leagues of land purporting to have been granted by the said State to Rafael de Aguirre on the San Gabriel or Williamson's creek, in the present county of Williamson and State of Texas, was paid to the proper officer of the republic of Texas in 1838, on behalf of the person then claiming under said grant; that the taxes on the said land due to the republic and State of Texas, have been paid by persons claiming under said grant from 1838 to 1847; and that, waiving any objection as to being better evidence in the land office or treasury department, there is no evidence in the land office or treasury department that the land dues and taxes have been paid by any person for the eleven leagues purporting to have been granted to Rafael de Aguirre on the Brazos river, at the mouth of the Bosque.

That in 1838 the commissioner of the general land office of the republic of Texas issued instructions to the several surveyors of the counties of said republic to delineate on the maps of their counties all the lands then titled, and not to allow a location or survey under a headright certificate, or the like to be made over such lands; and that the surveyors of the republic and State have been subject to these instructions since that time, although they have sometimes been disregarded. That the plat of the lines of the ten leagues appearing in the title issued to Rafael de Aguirre to have been granted to him on Williamson's creek and the San Gabriel was, soon after the opening of the land after and before 1840, delineated and made on the county map of Malcolm county, and has since remained on the map of that land district kept in the office of the surveyor and general land office; that by their map these connected surveys appear to have been made, one fronting on the San Andreas, or Little river, of eleven leagues, marked with the name of Meguel Davilla; the second in the rear of this of six leagues, marked with the name of Pedro Zarga; and the third adjacent to the latter and cornering on the first of ten leagues, in the name of Rafael de Aguirre. That the titles issued to Rafael de Aguirre, José Maria de Aguirre, and Tomas de la Vega are in the handwriting of Samuel M. Williams, except the names of the grantees, which are filled in throughout in different handwriting. That the title, so called, to José Maria de Aguirre, contains only the concession by the governor and the counterpart of the other proceedings at Leona Vicario, as contained in the other two titles, but contains no designation of the land or survey, or title of possession.

That the district of country embracing the San Andreas and its waters was, in 1833, in the limits of the colony conceded to Austin and Williams, and sometimes known as the Nashville or Robertson colony, and that the colonization of said district at that time by Austin and Williams was sanctioned by the States of Coahuila and Texas, and that no commissioner was at that time appointed for such colony.

That Gabriel Choat held the land that he occupied on the 20th of February, 1851, by a regular chain of transfer from the government, by virtue of a land certificate of third class duly surveyed and returned to the land office, and that he was on said land at least one year before the institution of this suit, and that Isaac Garner occupied his survey of land for at least one year before the institution of this suit.

And that the signature of Juan Gonzales to the power of attorney purporting to be made by José Maria Aguirre, Rafael de Aguirre, and Tomas de la Vega to Samuel M. Williams, to be produced on the trial of the cause, is his genuine signature; and that he was, at the time stated in the power and certificate, the officer which he is described to be in the caption. The above agreement only lasts during present term of court, February 19, 1855.

THOS. P. HUGHES, *for defendants.*

ALLEN & HALE, *for plaintiff.*

Endorsed: Filed February 27, 1855.

JAMES LOVE, *Clerk.*

UNITED STATES DISTRICT COURT, }
Eastern District of Texas. } At Galveston.

I, James Love, clerk of the United States district court, eastern district of Texas, at Galveston, certify that the foregoing is a true and correct copy of the agreement of the attorneys in the case of *Ufford vs. Dykes et al.*, on file in my office.

In witness whereof, I have hereto subscribed my name as clerk [L. S.] aforesaid, and affixed the seal of office, on the 9th day of March, A. D. 1858.

JAMES LOVE, *Clerk.*

THE STATE OF TEXAS, }
Travis County. } Joint.

This day Robert Hughes personally appeared before me, Francis T. Duffan, a notary public in and for the county aforesaid, and made oath in due form, that he finds in the general land office at Austin the testimonio of an original power of attorney, purporting to be executed by José Maria Aguirre, Tomas de la Vega, and Rafael Aguirre, on the 5th day of March, 1832, before Juan Gonzales, stating himself to be regidor of the city of Leona Vicario, and acting alcalde of the same, to Samuel M. Williams, giving him power to sell the land which had been conceded to them by the government of the States of Coahuila and Texas, on the 14th day of June, 1830; that [in] virtue of said power of attorney said Samuel M. Williams, on the first

day of May, 1840, conveyed the land, which had been perfected of eleven leagues to said Tomas de la Vega, to Michael B. Menard and Nathaniel F. Williams, who conveyed to others, until, by legal conveyance, the title was vested in a certain John W. Lapsley, for whom this affiant has commenced various suits in the district court of the State of Texas, now pending at Austin, on the trial of which it will be necessary to produce said letter of attorney; but that the same may be used in evidence, it is necessary that the same be moved, and for that purpose it is necessary that the same be withdrawn from the land office; this affiant is now the attorney of said Lapsley. Subscribed and sworn to this 16th day of December, 1854.

ROBERT HUGHES.

FRANCIS T. DUFFAN,
Notary Public, Travis County.

Note.—The date of the power of attorney above mentioned should have been May, instead of March, being stated to be March by mistake.

ROBERT HUGHES.

GENERAL LAND OFFICE, *December 18, 1854.*

Received of Stephen Crosby, commissioner of the general land office of the State of Texas, a power of attorney from José Ma. Aguirre, Rafael Aguirre, and Tomas Vega to Samuel M. Williams, authorizing him to sell their lands, which power of attorney is dated at Leona Vicario, May 5, 1832, the same being more fully described in the above affidavit.

ROBERT HUGHES,
Attorney for J. W. Lapsley.

GENERAL LAND OFFICE,
Austin, November 5, 1857.

I, S. Crosby, commissioner of the general land office of the State of Texas, hereby certify that the foregoing is a true copy of the original, (with its erasures and interlineations,) now on file in this office.

In testimony whereof, I hereunto set my hand and affix the seal of [SEAL.] said office, the day and date last above written.

S. CROSBY, *Commissioner.*

Resolved, That the chairman be directed to procure from the clerk of the district court of the United States at New Orleans, a list of all the causes transferred by the Hon. John C. Watrous, judge of the United States district court in Texas, since the 1st of January, 1846, to the said district court at New Orleans, with a duly authenticated copy of the order of Judge Watrous, transferring the same in each case, with the respective dates thereof.

Adopted in Committee on the Judiciary, April 13, 1858.

EDWARD A. POLLARD, *Clerk.*

Received 4th May, 1858.

Attest:

J. W. GURLEY,
Clerk United States Circuit Court, New Orleans.

JAMES PHALEN, of New York, }
 vs. } No. 1569.
 DAVID B. HERMAN, of Texas. }

Petition filed in the United States district court for the district of Texas, at Galveston, on the 15th of January, 1847.

Copy of order of transfer.

JAMES PHALEN, a citizen of }
 the State of New York, }
 vs. } In the district court of the United States
 DAVID B. HERMAN, a citizen } for the district of Texas, exercising
 of the State of Texas. } the powers and jurisdiction of a cir-
 cuit court.

JANUARY 23, 1847.

Whereas the undersigned, judge of the district court of the United States for the district of Texas, was employed as counsel in a number of cases, of which the present case is one, which render it improper, in his opinion, to sit in the trial of this suit; and whereas it is apparent, from the petition filed, that the subject matter of this suit is cognizable only in the circuit court of the United States; and whereas there is no judge, except the undersigned, authorized by law to hold said court for the trial of said cause, it is hereby ordered upon application of the plaintiff in this cause, that this fact be entered upon the records of the court; and it is further hereby ordered, that an authenticated copy of this order, together with all the proceedings in this suit, shall be forthwith certified by the clerk of this court to the circuit court of the United States for the circuit of Louisiana, sitting at the city of New Orleans, the same being the most convenient court in the next adjacent State hereto, for such order and proceedings in said circuit court of Louisiana in this cause as to the said court may seem agreeable to law.

JOHN C. WATROUS.

THOMAS BATES, Esq.,
Clerk United States District Court.

The transcript of the record was filed in the circuit court for the eastern district of Louisiana, at New Orleans, on the 7th day of February, A. D. 1847.

Attest: New Orleans, May 7, A. D. 1858.

J. W. GURLEY,
Clerk United States Circuit Court, Eastern District of Louisiana.

JAMES PHALEN, of New York, }
 vs. } No. 1570.
 DAVID B. HERMAN, of Texas. }

Petition filed in the district court of the United States for the district of Texas, at Galveston, on the 15th of January, 1847.

Copy of order of transfer.

JAMES PHALEN, a citizen of the State of
New York,
vs.
DAVID B. HERMAN, a citizen of the State
of Texas.

In the district court of the United States for the district of Texas,
exercising the powers and jurisdiction of a circuit court.

Whereas the undersigned, judge of the district court of the United States for the district of Texas, was employed as counsel in a number of cases, of which the present case is one, which renders it improper, in his opinion, to sit in the trial of this suit; and whereas it is apparent, from the petition filed, that the subject-matter of this suit is cognizable only in the circuit court of the United States; and whereas there is no judge, except the undersigned, authorized by law to hold said court for the trial of said cause, it is hereby ordered, upon application of the plaintiff in this cause, that this fact be entered upon the records of the court. And it is further hereby ordered that an authenticated copy of this order, together with all the proceedings in this suit, shall be forthwith certified by the clerk of this court to the circuit court of the United States for the circuit of Louisiana, sitting at the city of New Orleans, the same being the most convenient circuit court in the next adjacent State hereto, for such order and proceedings in said circuit court of Louisiana in this case as to the said court may seem agreeable to law.

JOHN C. WATROUS.

To THOMAS BATES, Esq.,
Clerk United States District Court.

JANUARY 23, 1847.

NEW ORLEANS, May 7, 1858.

The transcript of the record was filed in the United States circuit court for the eastern district of Louisiana on the 11th day of February, A. D. 1847.

Attest:

J. W. GURLEY,
Clerk U. S. circuit court, Eastern district of Louisiana.

JAMES REYNOLDS, of Louisiana,
vs.
HENRY M. LEWIS, THOMAS NEWCOMB, and JAMES
M. MANNING, all of Texas.

No. 1864.

Bill in chancery, filed in the district court of the United States for the district of Texas on the 9th day of April, 1849.

Copy of order of transfer.

DISTRICT COURT OF THE UNITED STATES.

JAMES N. REYNOLDS
vs.
HENRY M. LEWIS and others.

District court, in chancery.

In this case, the honorable judge presiding having stated, from the bench, that he was so related to or connected with some of the par-

ties interested in this suit as to render it improper, in his opinion, to sit on the trial of the same; and he having also declined to give any order or judgment in said case, the counsel for the defendant, Henry M. Lewis, now moves the court to cause the fact of the impropriety of the presiding judge sitting in the cause, from the causes aforesaid, to be entered on the records of the court; and also order that an authenticated copy thereof, with all the proceedings in the case, be forthwith certified to the circuit court of the United States for the district of *Arkansas*, there to be filed, and the case proceeded in according to law.

V. E. HOWARD,
J. A. & G. W. PASCHALL,
R. GARLAND,
Solicitors for defendant.

Endorsed.

Filed July 5, 1849.

JAMES LOVE, *Clerk.*

NEW ORLEANS, *May 7, 1858.*

The record of the case was filed in the circuit court of the United States for the eastern district of Louisiana, on the 11th day of December, A. D. 1849.

Attest: J. W. GURLEY,
Clerk U. S. circuit court, Eastern district of Louisiana.

JAMES N. REYNOLDS, of Louisiana,	} No. 1982.
<i>vs.</i>	
HENRY M. LEWIS and THOMAS NEWCOMB, of Texas.	

Petition in this cause filed in district court of the United States, district of Texas, on the 12th day of May, A. D. 1849.

Copy of order of transfer.

And afterwards, on Monday, the 7th day of June, A. D. 1850, the following order was made, to wit:

JAMES N. REYNOLDS	}
<i>vs.</i>	
HENRY M. LEWIS.	

This day came the parties by their attorneys, and upon motion of the said plaintiff, and because the judge of this court is so connected in interest and otherwise with one of the parties in this suit as to render it improper, in his opinion, to sit upon the trial of the cause, it is now hereby ordered by the court that this fact be entered upon the record of this court, and that a certified copy of such entry, with all the proceedings in this suit, be forthwith certified to the circuit court of the United States for the eastern district of Louisiana, that being the most convenient court of the United States in the next adjacent State.

The record of this cause was filed in the circuit court of the United States for the fifth circuit and eastern district of Louisiana on the 12th day of December, A. D. 1850.

Attest : New Orleans, 7th May, A. D. 1858.

J. W. GURLEY,

Clerk U. S. Circuit Court, Eastern District of La.

JOHN H. BROWER and WILLIAM NEILSON, trading under
the name of BROWER & NEILSON, of New York, }
vs. } No. 1987.
JOHN C. WATROUS.

Petition filed in the district court of the United States for the district of Texas on the 17th day of March, A. D. 1849.

Copy of order of transfer.

And afterwards, on the 20th day of June following, (A. D. 1850,) order was made in words and figures following, to wit :

BROWER & NEILSON }
vs. }
JOHN C. WATROUS. }

On this day [came] the parties by their attorneys, and upon motion of the plaintiffs, and because the judge is a party to this suit, and refuses to sit upon the trial of the cause, it is now hereby ordered by the court that this fact be entered upon the record of this court, and that a certified copy of this order, together with all the papers and proceedings in this suit, be forthwith certified to the circuit court of the United States for the eastern district of Louisiana, that being the most convenient court of the United States in the next adjoining State.

The record was filed in the United States circuit court, eastern district of Louisiana, on the 30th December, 1850.

Attest : New Orleans, 7th May, 1858.

J. W. GURLEY,

Clerk U. S. Circuit Court, Eastern District of La.

JOHN MAGINNIS, of Louisiana, }
vs. } No. 2075.
JAMES POWER, of Texas. }

Petition filed in the district court of the United States, district of Texas, on the 6th of April, A. D. 1849.

Copy of order of transfer.

JOHN MAGINNIS }
vs. } March 10, 1851.
JAMES POWER. }

This day came the parties by their attorneys, and the application made on part of the plaintiff to transfer this suit, and the accompanying affidavit having been considered by the court, and inasmuch as the judge of this court is so interested in the decision of the question

arising in this suit as to the validity of the survey upon which the plaintiff's title is based as to render it improper, in his opinion, to sit upon the trial thereof, it is now ordered that this fact be entered upon the records of this court, and that an authenticated copy thereof, with all the proceedings in this suit, shall be certified to the circuit court of the United States for the eastern district of Louisiana, the same being the most convenient circuit court in the next adjoining State.

Record filed in the United States circuit court, eastern district of Louisiana, on the 19th December, 1851.

Attest: New Orleans, May 7, A. D. 1858.

J. W. GURLEY,

Clerk U. S. circuit court, eastern district of Louisiana.

JOHN W. LAPSLEY, of Alabama, }
 vs. } No. 2452.
 ELIPHAS SPENCER, of Texas. }

The petition in this case was filed in the district court of the United States for the district of Texas, at Galveston, on the 11th of January, 1851, and in the court at Austin on the 19th of November, 1853.

Copy of order for transfer.

IN THE DISTRICT COURT OF THE UNITED STATES,
For the District of Texas.

JOHN W. LAPSLEY }
 vs. } No. 68. Austin, November term, 1854.
 ELIPHAS SPENCER. }

December 9, 1854.—This day came the plaintiff aforesaid by his attorney, and, on motion of said plaintiff by his attorney, the judge now presiding states, and enters upon the record, that he has an interest with the plaintiff in the land in controversy in this suit, which, in his opinion, renders it improper for him to sit in the trial of the same; and thereupon the court, upon further motion, orders, because there is no circuit court of the United States in this State, that an authenticated copy of this order, and of all the record and proceedings in this action, be forthwith certified to the circuit court of the State of Louisiana, at New Orleans, that court being the most convenient of the United States circuit courts in adjoining States.

The transcript of the record was filed in the United States circuit court, eastern district of Louisiana, on the 14th day of April, A. D. 1855.

Attest: New Orleans, May 8, 1858.

J. W. GURLEY,

Clerk U. S. circuit court, eastern district of Louisiana.

JOHN W. LAPSLEY, of Alabama, }
 vs. } No. 2453.
 JAMES BARTON, of Texas.

The petition in this case was filed in the United States district court for the district of Texas, at Galveston, on the 11th of January, A. D. 1851.

The order for the transfer of the cause to the United States circuit court for the eastern district of Louisiana was made on the 9th December, 1854, and is in phraseology the same as that entered in the case of John W. Lapsley *vs.* Eliphas Spencer, No. 2452 *ante*.

The transcript of the record was filed in the United States circuit court, eastern district of Louisiana, at New Orleans, on the 14th April, A. D. 1855.

Attest : New Orleans, 8th May, 1858.

J. W. GURLEY,
Clerk United States circuit court, eastern.

JOHN W. LAPSLEY, of Alabama, }
 vs. } No. 2454.
 DAVID BARTON, of Texas.

The petition in this case was filed in the district court of the United States for the district of Texas, at Galveston, on the 11th day of January, 1851, and in the court at Austin on the 19th of November, 1853.

Copy of order for transfer.

IN THE DISTRICT COURT OF THE UNITED STATES,
 For the District of Texas.

JOHN W. LAPSLEY }
 vs. } No. 66. Austin, November term, 1854.
 DAVID BARTON.

December 9, 1854.—This day came the plaintiff aforesaid by his attorney, and, on motion of said plaintiff by his attorney, the judge now presiding states, and enters upon the record, that he has an interest with the plaintiff in the land in controversy in this suit, which, in his opinion, renders it improper for him to sit in the trial of the same; and thereupon the court, upon further motion, orders, because there is no circuit court of the United States in this State, that an authenticated copy of this order, and of all the record and proceedings in this action, be forthwith certified to the circuit court of the United States for the eastern district of the State of Louisiana, that court being the most convenient of the United States circuit courts in adjoining States.

The transcript of the record was filed in the United States circuit court for the eastern district of Louisiana, on the 14th day of April, 1855.

Attest : New Orleans, 8th May, 1858.

J. W. GURLEY,
Clerk United States circuit court, eastern district, Louisiana.

JOHN W. LAPSLEY, of Alabama, }
 vs. } 2455.
 JOHN BARTON, of Texas. }

The petition in this cause was filed in the district court of the United States for the district of Texas, at Galveston, on the 15th of April, 1851, and in the court at Austin on the 19th November, 1853.

The order transferring the cause to the United States circuit court for the eastern district of Louisiana was made on the 9th day of December, 1854, and is in phraseology the same as that entered in the case of John W. Lapsley *vs.* Eliphas Spencer, No. 2452 *ante*.

The transcript of the record was filed in the United States circuit court, eastern district of Louisiana, at New Orleans, on the 14th of April, 1855.

Attest: New Orleans, 8th May, 1858.

J. W. GURLEY,

Clerk United States circuit court, eastern district of Louisiana.

JOHN W. LAPSLEY, of Alabama, }
 vs. } No. 2450.
 ——— BROWN, of Texas. }

The petition in this case was filed in the district court of the United States for district of Texas, at Galveston, on the 11th of January, 1851, and in the court of Austin on the 19th of November, 1853.

Copy of order for transfer.

IN THE DISTRICT COURT OF THE UNITED STATES,
 For the District of Texas.

JOHN W. LAPSLEY }
 vs. } Austin, November term, 1854.
 JAMES BROWN. }

December 9, 1854.—This day came the plaintiff aforesaid by his attorney, and, on motion of said plaintiff by his attorney, the judge now presiding states, and enters upon the record, that he has an interest with the plaintiff in the land in controversy in this suit, which, in his opinion, renders it improper for him to sit in the trial of the same; and thereupon the court, upon further motion, orders, because there is no circuit court of the United States in this State, that an authenticated copy of this order, and of all the record and proceedings in this action, be forthwith certified to the circuit court of the United States for the eastern district of the State of Louisiana, at New Orleans, that court being the most convenient of the United States circuit courts in adjoining States.

The transcript of the record was filed in the United States circuit court, eastern district of Louisiana, on the 14th day of April, 1855.

Attest: New Orleans, May 8, 1858.

J. W. GURLEY,

Clerk U. S. circuit court, eastern district of Louisiana.

JOHN W. LAPSLEY, of Alabama, }
 vs. } No. 2457.
 CHARLES DUNCAN, of Texas. }

The petition in this case was filed in the district court of the United States for the district of Texas, at Galveston, on the 11th of January, 1851, and in the court at Austin on the 19th of November, 1853.

The order to transfer this case to the United States circuit court, eastern district of Louisiana, was made on the 9th day of December, 1854, and is in its phraseology the same as that entered in the case of John W. Lapsley *vs.* Eliphas Spencer, No. 2452, *ante*.

The transcript of the record was filed in the United States circuit court, eastern district of Louisiana, at New Orleans, on the 14th of April, A. D. 1855.

Attest: New Orleans, May 8, 1858.

J. W. GURLEY,
Clerk U. S. circuit court, eastern district of Louisiana.

JOHN W. LAPSLEY, of Alabama, }
 vs. } No. 2458.
 D. R. MITCHELL, ——— WARREN, of Texas. }

The petition in this case was filed in the United States district court for the district of Texas, at Galveston, on the 15th April, 1851, and in the court at Austin on the 19th November, 1853.

The order for the transfer of the cause to United States circuit court for the eastern district of Louisiana was made on the 9th December, 1854, and is in phraseology the same as that entered in the case of John W. Lapsley *vs.* Eliphas Spencer, No. 2452, *ante*.

The transcript of the record was filed in the United States circuit court, eastern district of Louisiana, on the 14th April, 1855.

Attest: New Orleans, 10th May, A. D. 1858.

J. W. GURLEY,
Clerk United States Circuit Court, Eastern District of Louisiana.

JOHN W. LAPSLEY, of Alabama, }
 vs. } No. 2459.
 WILLIAM DELK and ANN, his wife, late ANN FLEMMING, }
 widow of PETER FLEMMING, deceased, and SARAH, }
 MARY, and ANN ELIZA FLEMMING, heirs of PETER }
 FLEMMING, deceased. }

The petition in this case was filed in the district court of the United States for the district of Texas, at Galveston, on the 15th day of April, 1851, and in the court at Austin on the 19th November, 1853.

The order for the transfer of the cause to the United States circuit court for the eastern district of Louisiana was made on the 9th day of December, 1854, and is in phraseology the same as that entered in the case of John W. Lapsley *vs.* Eliphas Spencer, No. 2452.—See *ante*.

The transcript of the record was filed in the United States circuit

court, eastern district of Louisiana, at New Orleans, on the 14th April, 1855.

Attest: New Orleans, 8th May, 1858.

J. W. GURLEY,

Clerk United States Circuit Court, Eastern District of Louisiana.

JOHN W. LAPSLEY, of Alabama,

vs.

JAMES MARTIN, of Texas.

} No. 2460.

The petition in this case was filed in the district court of the United States for the district of Texas, at Galveston, on the 11th January, A. D. 1851, and in the court at Austin on the 19th November, 1853.

The order for the transfer of the case to the United States circuit court for eastern district of Louisiana was entered on the 9th December, 1854, and is in phraseology the same as that entered in the case of John W. Lapsley *vs.* Eliphas Spencer, No. 2452.—See *ante*.

The transcript of the record was filed in the United States circuit court, eastern district of Louisiana, at New Orleans, on the 14th day of April, A. D. 1855.

Attest: New Orleans, 8th May, 1858.

J. W. GURLEY,

Clerk United States Circuit Court, Eastern District of Louisiana.

JOHN W. LAPSLEY, of Alabama,

vs.

GEORGE BARNARD, of Texas.

} No. 2461.

The petition in this cause was filed in the United States district court for the district of Texas, at Galveston, on the 11th January, 1851, and in the court at Austin on the 19th November, 1853.

The order transferring the cause to the United States circuit court for eastern district of Louisiana, at New Orleans, was made on the 9th December, 1854, and is in its phraseology the same as that entered in the case of John W. Lapsley *vs.* Eliphas Spencer, No. 2452, *ante*.

The transcript of the record was filed in the United States circuit court, eastern district of Louisiana, New Orleans, on the 14th April, A. D. 1855.

Attest: New Orleans, 8th May, 1858.

J. W. GURLEY,

Clerk United States Circuit Court, Eastern District of Louisiana.

JOHN W. LAPSLEY, of Alabama,

vs.

DAVID HEFFINGTON and WILLIAM LONG, of Texas.

} No. 2462.

The petition in this case was filed in the United States district court for the district of Texas, at Galveston, on the 15th April, 1851, and in the court at Austin on the 19th November, 1853.

The order for the transfer of the cause to the United States circuit

court, eastern district of Louisiana, was made on the 9th December, 1854, and is in phraseology the same as that entered in the case of John W. Lapsley *vs.* Eliphas Spencer, No. 2452, *ante*.

The transcript of the record was filed in the United States circuit court, eastern district, at New Orleans, on the 14th April, 1855.

Attest: New Orleans, May 10, 1858.

J. W. GURLEY,

Clerk United States Circuit Court, Eastern District of Louisiana.

JOSÉ MARIA CARDENAS, JESUS CARDENAS, CARMIN CARDE- NAS, TERESA CARDENAS DE GARZA, JUAN NEPOMUSINO CAVAZOS CARDENAS, JOSEFA CARDENAS DE LEON, SERE- FIN GONZALES, and FRANCISCA CARDENAS DE CARDENAS, citizens of the republic of Mexico, vs. HENRY M. LEWIS, JAMES N. REYNOLDS, G. K. LEWIS, and CORNELIUS PETERSON, citizens of Texas.	}	No. 2841.
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The petition in this case was filed in the district court of the United States for the district of Texas on the 30th day of January, 1851.

Copy of order of transfer.

And afterwards, to wit: on the 20th day of February, A. D. 1857, the court here made an order in this cause, which is in the words and figures following, to wit:

JOSÉ MARIA CARDENAS <i>et als.</i> vs. HENRY M LEWIS <i>et als.</i>	}
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This day came the defendants by their attorneys, and referring to their motion, heretofore filed, on the 16th day of March, 1855, and to the known interest of the judge of this court, now called up the said motion for disposition; and the judge of the court thereupon stated, and ordered it to be entered of record, that he had been of counsel in relation to the subject matter of this action before his appointment as judge of this court, so as to render it improper for him to sit on the trial of the same: wherefore, it is now ordered by the court that an authenticated copy of this order, and of all the proceedings in this action, shall be forthwith certified to the circuit court of the United States for the eastern district of Louisiana, sitting at the city of New Orleans, that being the most convenient circuit court in the State adjacent to the State of Texas; and that the clerk of this court transmit to the clerk of the said circuit court the authenticated copy of this order and the said proceedings, and also all the original papers filed in this suit, with his bill of costs duly taxed.

The record was filed in the United States circuit court, eastern district of Louisiana, on the 13th day of January, 1858.

Attest: New Orleans, 7th May, 1858.

J. W. GURLEY,

Clerk United States Circuit Court, Eastern District of Louisiana.

The United States of America, District of Texas.

CHANCERY DOCKET—JANUARY TERM, 1852.

Hughes and Yerger.....	George W. Johnson and wife <i>vs.</i> Robert Moore.	No. 6	December term, 1849, sequestration dismissed, and death of defendant suggested; leave given to file bill of receiver. June 28, 1850, bill of receiver filed, and service on A. S. Ruthven, administrator. April term, 1850, continued. May term, 1850, continued. December term, 1850, continued. April term, 1851, continued. May term, 1851, continued.
Howard, Yerger, and Paschal.....	Harris and Washington <i>vs.</i> John M. Lewis.	No. 7	Service made. April term, 1850, demurrer overruled; leave to file an amended bill. May term, 1850, continued. December term, 1850, continued. April term, 1851, continued. May term, 1851, continued.
Rose, Hale, Hughes.....	S. Whitney <i>vs.</i> Ham.	No. 8	Service made. April term, 1850, continued. May term, 1850, continued. December term, 1850, continued. May term, 1851, ordered to be transferred to Tyler district, on application of Mr. Ham, he first paying costs of court.
Ballinger.....	Willis Stewart <i>et als.</i> <i>vs.</i> Edward H. Tarrant.	No. 11	Service made. December term, 1850, passed.
Allen.....	Same <i>vs.</i> Mitchell <i>et als.</i>	No. 12	Service on all the defendants. December term, 1850, passed. April term, 1851, passed. May term, 1851, passed.
Jones and Ballinger.....	Matthew Gayle <i>vs.</i>	No. 13	
Yerger and McQueen.....	Wm. G. Hill, administrator.		
Howard and Hughes.....	John Cameron <i>vs.</i>	No. 24	May term, 1851, demurrer to complainant's bill overruled; two months given to file answer.
Yerger.....	George Sutherland <i>et als.</i>		

CHANCERY DOCKET—Continued

Howard and Hughes	Catherine McMarter <i>vs.</i> James R. Jones <i>et als.</i>	No. 25	May term, 1851, continued.
Pryer, Lea	George L. Haumeikin <i>et ux.</i> <i>vs.</i> Nathaniel Hoyt <i>et als.</i>	No. 27	Process served. Disposed of at May term, 1850.
Hughes, Rose	Kirkman and Rosser, survivors, <i>vs.</i> Collins <i>et als.</i>	No. 34	May term, 1851, defendant's demurrer overruled, and time given to 1st September to file amendment to bill.
Merriman, Allen, and Hale	Rafeal Garcia Cavazos <i>et als.</i> <i>vs.</i> Charles Stillman <i>et als.</i>	No. 41	Under advisement.
Ballinger	Sophia J. St. John and husband <i>vs.</i> Thomas F. McKinney and others.	No. 46	May term, 1851, leave to amend amended bill with reference to charges against J. L. Briggs and J. M. Smythe, and continued.
Allen and Hale	J. Temple Derwell <i>vs.</i> H. G. Kinney.	No. 48	May term, 1851, leave given to other party to take out letters rogatory.
Allen and Hale	Jehn Cameron <i>vs.</i> Joseph F. Smith <i>et als.</i>	No. 49	May term, 1851, passed.
Howard, Hord, Johnson, Swett, Potter, Ballinger.	Same <i>vs.</i> N. B. Thompson <i>et als.</i>	No. 50	Jas. Perry, Pat. Bradley, W. W. Wilson, James Hayden, and J. T. Hard not found. May term, 1851, passed.
Paschal, Hughes	McWillie & Dabney <i>vs.</i> Henderson & Wooldridge.	No. 53	May term, 1851, referred to arbitrators.
J., B., and Ballinger			
Johnson, Alexander, Allen, and Hale ..			
Hughes, Butler, and Merriman			
Hughes			
Allen and Hale			
Hughes			
Lea			
J., B., and Ballinger			

Allen and Hale.....	Antonio Garcia Cavazos <i>vs.</i> Joseph O. Williams.	No. 54	May term, 1851, passed.
Potter, Merriman.....	Jacob Mussina <i>vs.</i> Charles Stillman and Belden.	No. 55	Alexander and Atchison to be marked for plaintiff at next term. May term, 1851, continued.
Sherwood and A.....	Harvey A. Baldwin <i>vs.</i> Galveston City Company <i>et als.</i>	No. 57	May term, 1851, order dismissing cause and rules set aside. John S. Jones appointed guardian <i>ad litem</i> .
J., B., and B., Swett, Merriman, Potter.	Henry R. W. Hill <i>vs.</i> A. S. Ruthven <i>et als.</i>	No. 58	April term, 1851, service on Ruthven and Bridge for the other defendants not served. May term, 1851, leave to amend bill, and amendment filed.
Allen and Hale.....	John M. Brown <i>vs.</i> J. C. Echals.	No. 59	April term, 1851, not served by order of plaintiff's attorney. May term, 1851, not served by order of plaintiff's attorney. May term, 1851, continued.
Allen and Hale.....	Planters' Bank of Tennessee <i>vs.</i> Thomas Haffee <i>et als.</i>	No. 60	December term, 1850, passed. May term, 1851, continued.
Hughes and Howard	John Bacon <i>vs.</i> Volney E. Howard.	No. 61	May term, 1851, continued.
J., B., and B.	B. D. Howard <i>vs.</i> Archibald Hodge <i>et als.</i>	No. 64	Filed February 17, 1851. Service on Hodge, Herndon, Richardson, Bartle, Maverick, Smith, and Tucker; not executed on Price by plaintiff's attorneys' order; R. C. Garza dead; other defendants not found.
Allen and Hale.....	John Haggerty and others <i>vs.</i> James Morgan.	No. 65	Filed April 17, 1851. Service May 24, 1851. Answer filed September 19, 1851. Exceptions to answer filed November 3, 1851.

CHANCERY DOCKET—Continued.

Jones, B, and B.-----	No. 66	Van Noltén and Gagel <i>vs.</i> L. M. Hithcock <i>et als.</i>	Filed April 30, 1851. Service on all defendants May 2, 1851. Demurrer of Hithcock and Ball filed July 7, 1851.
Merriman -----	No. 67	R. B. Blossman <i>vs.</i> William J. Jones.	Filed May 2, 1851. Service June 3, 1851. Plea filed July 13, 1851. Amended bill filed November 3, 1851.
Patten, J., B., and B.-----	No. 68	R. C. Wetmore and others <i>vs.</i> Joseph H. Ward and others.	Filed May 7, 1851. Service on Ward August 7, 1851. Service acknowledged by Butler.
Hughes, Yerger -----	No. 69	Edward Hanwick <i>vs.</i> Thomas J. Chambers.	Filed May 31, 1851; service 31, 1851. Martin for further time to answer filed October 6, 1851.
Jones, B., and B.-----	No. 70	Daniel W. Adams <i>et als.</i> <i>vs.</i> Nelson H. Murger, administrator.	Filed August 2, 1851. Service September 3, 1851. Demurrer of defendant filed November 3, 1851.

THE UNITED STATES OF AMERICA, }
District of Texas.

I, James Love, clerk of the district court of the United States of America for the district of Texas, sitting at Galveston, certify the foregoing to be a true and perfect transcript of the chancery docket of said court for the term held during the month of January, A. D. 1852, and that said January term was the only term of court during that year.

[L. s.] In testimony whereof, I hereunto set my hand and affix the seal of said court. Done at the city of Galveston, this twenty-third day of May, A. D. 1856.

JAMES LOVE, Clerk.

SUPREME COURT OF THE UNITED STATES.

No. 74.

PATRICK C. SHANNON, App't,

vs.

RAFAEL GARCIA CAVAZOS AND WIFE ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT
OF TEXAS.

THE UNITED STATES OF AMERICA,

District court of the United States, district of Texas at Galveston.

At a term of the district court of the United States in and for the district of Texas, begun and held at the city of Galveston, on the first Monday of January, in the year of our Lord one thousand eight hundred and fifty-two; present, the honorable John C. Watrous, judge of said court, Joseph Bates, esquire, United States marshal, and James Love, clerk: among other were the following proceedings, to wit:

DON RAFAEL GARCIA CAVAZOS, DOÑA MARIA JOSEFA CAVAZOS, his wife, DOÑA ESTAFANA GOZEASCOCHEA DE CORTINA, DOÑA FELICIANA DE TIGERINA, DON CONSTANTINO TARNEVA, DOÑA ANGELA GARCIA SAFEN DE TARNEVA, his wife, RAMON SAFEN, by his next friend DON CONSTANTINO TARNEVA, and DON MANUEL PRIETO, complainants,

vs.

CHARLES STILLMAN, RICHARD FITZPATRICK, PATRICK C. SHANNON, SAMUEL A. BELDEN, and W. W. CHAPMAN, defendants.

Be it remembered that heretofore, to wit, on the twelfth day of January, in the year of our Lord one thousand eight hundred and forty-nine, came the complainants herein by Ebenezer Allen and William G. Hale, esquires, their solicitors, and filed their bill of complaint herein, which is in the words and of the term following, to wit:

Bill.

DISTRICT COURT OF THE UNITED STATES, }
District of Texas. } In chancery.

To the honorable John C. Watrous, judge of the district court of the United States of America, having and exercising the powers and jurisdiction of a circuit court of the same for the district of Texas.

Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, Doña Estafana Gozeascochea de Cortina, now a widow, Doña Felicianana de Tigerena, now also a widow, Don Constantino Tarneva, and Doña Angela Garcia Safen de Tarneva, his wife, Ramon Safen, minor son of the said Doña Angela Garcia Safen de Tarneva, by her former husband Don Ramon Safen, now deceased, appearing by his guardian and next friend, the said Don Constantino Tarneva, and Don Manuel Prieto, all of whom are aliens to the said United States of America, and citizens of the State of Tamaulipas, and of the United Mexican States, bring this their bill against Charles Stillman, of , who is a citizen of the State of Texas, Richard Fitzpatrick, who is also a citizen of the State of Texas, and residing at or near the town of Brownsville therein; Patrick C. Shannon, of , who is also a citizen of the State of Texas, and Samuel A. Belden, of , who is also a citizen of the State of Texas, and W. W. Chapman, of , who is also a citizen of the State of Texas. And thereupon your orators complain and say, that heretofore, to wit: about the eighteenth day of July, in the year of our Lord one thousand seven hundred and eighty-one, the Presidente Regente and Vidores composing the Royal Audiencia of New Spain, acting and performing their duties as such in conformity with the laws of Spain and the Indies, and the royal decrees, orders, and instructions for the government of the viceroyalty of New Spain, at the city of Mexico, and after the usual requisites and formalities of law had been fully performed, complied with, and satisfied, confirmed the grant by way of sale, which had been before conceded to Don José Salvador de la Garza, of the Colonia de Nuevo Santander, in the said viceroyalty, by Don Francisco Xavier Gamboa, special judge of lands and waters, of the tract of land then known as El Potrero del Espiritu Santo, situate in the Colonia de Nuevo Santander aforesaid, containing fifty-nine sitios and about eleven cabbalerias of land, and bounded and enclosed as follows, that is to say: On one side by the Rio Grande or Rio Bravo del Norte; on another by the Laguna del Madre or Laguna Madre, and the Gulf of Mexico; on another by the Arroya Colorado or Sal Colorado; and on the last by a thicket or dense wood, extending nearly from the said Rio Grande to the said Arroyo Colorado, at a point considerably above the present site of the town of Santa Rita, on the said Rio Grande. That thereafter, to wit, on the twenty-sixth day of September, in the year of our Lord one thousand seven hundred and eighty-one, the said Don Francisco Xavier Gamboa, acting in the regular exercise of his functions as special judge for the sale and disposition of lands and waters in the said viceroyalty of New Spain, in pursuance of such confirmation, and in accordance with the laws, decrees, orders, and instructions aforesaid, at the said city of Mexico, and in the name and by the authority of Don Carlos III, then king of Spain and the Indies, adjudicated and granted the afore described tract of land, by way of sale, to the said Don José Salvador de la Garza, in the most solemn form of law, giving to him, his heirs, successors, and assigns, full property therein, and right and power to use, enjoy,

possess, and dispose of the same, as he or they might desire and the law allow. That thereafter, to wit, in the year aforesaid, the said Don José Salvador de la Garza was put and placed in quiet possession of said tract of land, and, as he had before done, continued to occupy, use, possess, and enjoy the said tract of land and the fruits thereof to the time of his death.

And your orators further say that the said Don José Salvador de la Garza intermarried about the year of our Lord ——— with Doña Maria Gertudis de la Garza Falcon, by whom he had issue one son, Don Blas Maria de la Garza, and two daughters, Doña Francesca Xaberia de la Garza, and Doña Maria Antonia Margarita de la Garza, [and that their said father and mother deceased in the years of our Lord one thousand seven hundred and ———, respectively, leaving the aforesaid children as their sole heirs of the said tract of land.] That the said Don Blas Maria de la Garza, about the year of our Lord one thousand seven hundred and ninety-two, intermarried with Doña Maria Francesca Cavazos, and died about the year of our Lord one thousand eight hundred and two, leaving no issue; and having by his last will and testament, made and signed by him in due form of law, on the fourth day of May, in the year of our Lord one thousand eight hundred and two, bequeathed his undivided and distributive share of the said tract of land, among other things, to the said Doña Maria Francesca Cavazos, his wife, and Doña Maria Josefa Cavazos, his niece, and daughter of Doña Maria Ignacia Cavazos, sister of his said wife. That the said Maria Francesca Cavazos also died without issue, about the year of our Lord one thousand eight hundred and thirty-five, having by her last will and testament, made by her in due form of law, on the ——— in the year of our Lord one thousand eight hundred and ——— bequeathed her undivided share of the said tract of land, among other things, to her said sister, and the said Doña Maria Josefa Cavazos, her niece, excepting, however, a portion thereof, which she the said Doña Maria Francesca Cavazos had in her lifetime sold to one Captain Don José Miguel Paredes, the legal title remaining in her until the purchase-money was fully paid. That the said Doña Maria Ignacia Cavazos, and the said Doña Maria Josefa Cavazos were, by the said last mentioned will and testament, duly appointed and charged to act as executrices of the same. That the said Doña Maria Ignacia Cavazos, by an act of partition made and attested in due form of law on the thirtieth day of June, in the year of our Lord one thousand eight hundred and thirty-five, between herself and the said Doña Maria Josefa Cavazos, and her husband, hereinbefore named, ceded and relinquished to the said Doña Maria Josefa Cavazos all her interest and undivided share of the said tract of land, and thereafter, to wit: in the year of our Lord ——— departed this life, whereby the said Doña Maria Josefa Cavazos, now your oratrix herein, became and now is the sole heir of the said Don Blas Maria de la Garza, as to his distributive share or interest of and in the said tract of land.

And your orators further say that the said Doña Haveria de la Garza, about the year of our Lord one thousand seven hundred and eighty-seven, intermarried with Don José Gozeascochea, and there-

after, to wit: about the year of our Lord one thousand eight hundred and thirty-three, and after the death of her said husband, died, leaving issue two daughters, Doña Estafana and Doña Feliciana, now living, unmarried, and bearing the names respectively of Doña Estafana Gozeascochea de Cortina and Doña Feliciana de Tigerina, your oratrices herein.

And your orators further say that the said Doña Margarita de la Garza, about the year of our Lord one thousand seven hundred and eighty-three, intermarried with Don Pedro Lopez Prieto, and with her said husband died, leaving issue two sons, Josef Antonio Margil Prieto, and Joseph Manuel Prieto; that the said Antonio Prieto thereafterwards, to wit: on the ——— in the year of our Lord ——— sold, assigned, and transferred his distributive share of the said tract of land to Don Ramon Safen; that the said Don Ramon Safen intermarried about the year of our Lord one thousand eight hundred and twenty-four with Doña Angela Garcia, and died leaving issue one son, Don Ramon Safen, now a minor, and that the said Doña Angela Garcia Safen thereafter intermarried with the said Don Constantino Tarneva, your orator herein: Whereby the said Don Manuel Prieto, Doña Angela Garcia Safen de Tarneva, and Don Ramon Safen, your orators herein, became and now are the sole heirs of the said Doña Margarita de la Garza as their distributive share of the said tract of land.

And your orators further say that they and all of their aforesaid predecessors to the time of their ancestor Don José Salvador de la Garza, have held, possessed, occupied, and retained the said tract of land, as rightful owners thereof, and have exercised all customary acts of ownership over the same, pasturing large stocks of cattle, horses, and mules, and building hacals, cattle pens, sheds, granaries, and dwelling-houses thereon, tilling the soil, and enclosing the ground by fences and other means for such tillage, renting portions of the same at different times and receiving the profits therefrom, and generally doing all acts that might render their title and possession public and notorious up to the time of filing this bill.

And your orators further say that according to the terms of the Fifth Article of the Treaty of Peace, Friendship, Limits, and Settlement, concluded between the United States of America and the Mexican Republic, at Guadalupe Hidalgo, on the second day of February, in the year of our Lord one thousand eight hundred and forty-eight, the afore described tract of land remained for the future within the limits of the said United States, and within what is now the County of Cameron, in the State of Texas.

And your orators further say that on account of differences and dissensions among themselves and among their predecessors, heirs of the said Don José Salvador de la Garza, no partition or division of the said tract of land has ever been legally made, so as to insure to each one of the orators his and her proper and distributive share, but that your orators and their predecessors have in former times and long before the filing of this bill, by a kind of mutual understanding, have considered that certain particular portions of the said

land would, upon a final partition, fall to the share of each, and are consequently desirous in order to preserve and secure harmony among themselves, and a happy adjustment of the difficulties and dissensions aforesaid, that no impediment shall intervene to prevent all the said heirs, your orators herein, from consenting to receive the particular portions aforesaid.

And your orators further say that some of them, whom it is unnecessary here to name, are anxious to have the power of disposing by sale of their portions of the said tract of land, in accordance with the provisions of the seventh article of the said treaty, and of removing the proceeds out of the said United States of America, and to this end they earnestly desire, as indeed it is requisite, to have an immediate and amicable partition as aforesaid of the said tract of land, without being hindered, embarrassed, or interrupted therein by other persons.

And your orators further say that notwithstanding the just rights of your orators, and their title hereinbefore set forth, the said defendants, and many other persons whose names are at present unknown to your orators, but when discovered, your orators pray may be herein inserted as parties defendant, with apt words to charge them as such, have within the years last past set up, and still continue to set up, divers pretended titles to large portions of the said land, and in particular that they have obtained certain illegal and invalid grants or claims to such portions purporting to be given by the authority of the ayuntamiento of Matamoras, and to issue under the same, and that they have further procured a large number of headright certificates, county warrants, land scrip, and other evidences of title to land issued under the authority of the late republic and present State of Texas, and have caused the same to be located and surveyed in the said portion of the said tract of land since the annexation of Texas to the said United States.

And your orators further say that the said defendants and the other persons above referred, have employed the public officers of the State of Texas, as surveyors, recorders of deeds, et cetera, and made use of the public records of the country to render their illegal and pretended claims notorious and available to themselves, and that they have even deposited some of the pretended evidences of such illegal claims in the land offices of the country, and in the general land office of the State of Texas.

And your orators further say that the said defendants and the other persons hereinbefore referred to, have, under such claims, pretended to have the right and authority by the laws in force in the said State of Texas, to take possession and to hold the said portions of the said tract of land, and to sell, lease, or otherwise dispose of the same, and that they have in fact given out and threatened that they will, as their occasions require, take, lease, sell, and dispose of such portions, and to that end have caused notice to be given in newspapers and otherwise, that they are prepared to make transfers and conveyances, and to give leases and receive rents for parts thereof. And your orators therefore fear that they will carry their evil designs aforesaid

into execution and effect, until they are restrained therefrom by the decree of this honorable court, and writ of injunction issuing therefrom, and such writ is here sought by your orators.

And your orators further say that the said defendants and the other persons hereinbefore referred to, have laid off into lots a certain portion of the said tract of land on the left bank of the said Rio Grande, and nearly opposite the city of Matamoras, for the purpose of establishing a town to be called Brownsville, and of obtaining large amounts of money from the sale of the same; that they have given public notice of their intention and readiness to sell such lots, and to make titles therefor, and that many persons, anxious to acquire the same, and misled by the fraudulent devices of the said defendants, have assembled at or near the said intended site for the said town, proposing to purchase some of said lots from the said defendants, and to pay to them the full price therefor, and that some of the said defendants, and the other persons hereinbefore referred to, have pretended to lease, and others to accept the lease of a certain portion of the said tract of land, being that portion upon which Fort Brown is now situate, containing about acres, and designed for the use of the said United States of America, and are receiving and paying the rent therefor, being about the sum of eighty dollars for each and every month, which of right belongs to your orators, and your orators in fact fear that the said defendants and the other persons hereinbefore referred to will continue in their unjust and unlawful practices aforesaid, unless they are restrained therefrom by the decree of this honorable court, and a writ of injunction issuing therefrom, and such writ is here sought by your orators as aforesaid.

And your orators further say and here show to your honor, that by reason of the premises, and of the fraudulent, illegal, and unjust practices and acts aforesaid, of the said defendants and the other persons hereinbefore referred to, a cloud is cast on the title of your orators hereinbefore set forth, whereby they are and have long been prevented from enjoying their just rights in and to the said tract of land, from making an amicable partition thereof, and from disposing of the same readily, and for such adequate compensation as they are lawfully entitled to receive.

And your orators further say that previously to the commencement of this suit, your orators at sundry times have informed the said defendants of the true nature and validity of the title of your orators, of which indeed the said defendants were well knowing long before their said acts herein complained of, and have applied to them by letter, and otherwise requesting them to act towards your orators in such a way as is equitable and just, and to desist from the unreasonable and unjust practices herein mentioned, and your orators had well hoped that such their reasonable requests would have been complied with.

But now so it is, may it please your honor, that the said defendants, combining and confederating together, and with the other persons hereinbefore referred to, and contriving how to wrong and injure your orator in the premises, absolutely refuse to comply with such

requests. And the said defendants sometimes pretend that the titles, grants, claims, locations, and surveys by them set up as aforesaid, are good and valid in law, and that their acts aforesaid in selling and leasing portions of the said tract of land, and receiving and offering payment therefor, are rightful and proper, and at other times pretend that your orators are not entitled to the relief sought by this bill, but only to a portion of such relief, the direct contrary whereof your orators here charge to be true; and further charge that the said acts of the said defendants, as well as their said pretended titles, grants, claims, locations, and surveys are in violation of the laws and constitutions of the State of Tamaulipas, the United Mexican States, the republic and the State of Texas, and the United States of America, and of the treaty aforesaid.

And your orators further charge, that there are now in the separate possession of each of the defendants, or under his control, some writings, deeds, books, papers, memoranda, and certificates, having relation to, or making allusion to the matters in question, or some of them, whereby the truth of the statements and charges aforesaid, or some of them, would clearly appear; and each of which writings, deeds, books, papers, memoranda, and certificates, your orators here seek from each of the said defendants descriptive and full particulars, well arranged and framed, so as to form an intelligible schedule.

All which actings, doings, refusals, and pretences, are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orators in the premises. In consideration whereof, and forasmuch as your orators are remediless at and by the strict rules of the common law, and cannot have adequate relief save in a court of equity, where matters of this and like nature are properly cognizable and relievable:

To the end, therefore, that the said defendants may, if they can, show why your orators should not have the relief hereby prayed, and may upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, information, remembrance, and belief, full, true, direct, and perfect answer make to such of the said interrogatories hereinafter mentioned and set forth, as by the note hereunder written they are respectively required to answer, that is to say:

1. Whether it is not true that the said defendants, or some and who of them, have obtained from the ayuntamiento of Matamoras, some and what grants or claims to portions of the tract of land described in this bill? If yea, set forth the substance and matter of said title succinctly and clearly. If nay, have not the said defendants, or some and who of them, purchased, procured, or obtained from other persons, and whom, any and what, such grants or claims, issued under the authority of the said ayuntamiento, and do they not claim a title to portions of the said tract of land, under such grants or claims.

2. Whether it is not true that the said defendants, or some and who of them, have procured or caused to be procured certain and what head-right certificates, bounty warrants, land scrips, or some other

evidence of title to land, issued under the authority of the republic or State of Texas, and have located or caused to be located, surveyed or caused to be surveyed, the said evidences of title to land upon certain and what portions of the tract of land in this bill described, and whether they do not lay claim to such portions under color of such locations and surveys? If yea, set forth descriptive particulars of such evidences of title, and of such locations and surveys. If nay, have not the defendants, and some and who of them, purchased and procured from some other and what persons, similar claims to some and what portions of the said tract of land?

3. Whether it is not true that the said defendants, and some and who of them, claim a right and title to take possession of and hold certain and what portions of the said tract of land in this bill described, to sell, lease, or otherwise dispose of the same, to give titles or bonds for titles therefor, and to receive sums of money for the sale or lease of the same? If yea, under what right or title do they and each of them so claim? State particularly.

4. Whether it is not true that the said defendants, or some and who of them, claim a right and title to lay out into lots a certain, and what portion of the said tract of land, for the purpose of establishing a town thereon, to be called Brownsville, and of selling such lots, and receiving money therefor? Whether they have not given out that they will make titles or bonds for titles therefor, and receive payment for the same? Whether they have not received, and are now receiving, or paid and are now paying a certain, and what sum as rent for the site of Fort Brown, on the said tract of land, held upon and under some and what claim, grant, or title, different from that set forth by the complainants in this bill?

5. Whether they have not made some and what use of the public officers of the State of Texas, and of the records of the county for the purpose of making their claims, grants, or titles notorious or available to themselves?

And that the said defendants may be bound by all the proceedings in this case, and that they may be severally restrained by a writ of injunction issuing from this honorable court, at some suitable time during the pendency of this cause, from selling, leasing, or otherwise disposing of any portions of the tract of land described in this bill, and from receiving or paying any sum or sums of money from or to any person or persons holding or claiming to hold under any of the claims, grants, or titles in this bill mentioned, or any of like nature, adverse to the title of the complainants herein, as to the said tract of land or any portion thereof; and also and specially restraining them and each of them from selling, leasing, or otherwise disposing of any lot or lots in the so called town of Brownsville, in the county of Cameron, aforesaid, and receiving payment therefor, and giving titles thereto, and from receiving or paying any rent for the said site of Fort Brown, to any other person than your orators, or their lawful agent, during the pendency of this cause; and also that, by the final decree of your honor, the said title of your orators in and to the said tract of land in this bill described, may be fully estab-

lished, and your orators quieted therein, and in their possession under the same, and that the said defendants, and each of them, may be required to deliver up the evidences of their pretended claims, grants, and titles, to be cancelled, and that such claims, grants, and titles may be declared void, illegal, and fraudulent, and that the said defendants, and each of them, may be forever restrained, by a writ of injunction issuing from this honorable court, from again setting up or pretending any right or title in themselves or others, by virtue of such their fraudulent, void, and illegal claims, grants, or titles, or any of like nature, and from any way intermeddling with the said tract of land, without the consent of your orators; and that some competent person may be designated by the order of this honorable court, who shall proceed at once thereafter to survey, mark out, and report to this court the exact boundaries, extent, and position of the said tract of land in this bill described, and of the several portions thereof, to which the said defendants unjustly lay claim, and that the injunctions hereinbefore prayed for may at the final hearing of this cause, and by the decree of your honor, be made perpetual, and that your orators may have such other, further, and additional relief in the premises as to your honor may seem meet.

May it please your honor to grant unto your orators, not only such writ or writs of injunction and orders as are hereinbefore named and expressed, but also a writ or writs of subpoena, to be directed to the said Charles Stillman, Richard Fitzpatrick, P. C. Shannon, Samuel Belden, and W. W. Chapman, and their confederates when discovered, thereby commanding them, and every of them, at the first Monday of March next ensuing, and under a certain pain therein to be limited, personally to be and appear before your honor in this honorable court, at the city of Galveston, and then and there full, true, direct, and perfect answer make to all and singular the premises, and further to stand to, perform, and abide such further order, direction, and decree therein, as to your honor may seem meet, and that the said defendants and their confederates may be bound by all the proceedings in this cause. And your orators shall ever pray.

EBENEZER ALLEN,

WM. G. HALE,

Of counsel for complainants.

Note.—Each of the defendants herein is required to answer all of the interrogatories in this bill contained, and numbered from 1 to 5, inclusive.

EBENEZER ALLEN,

WM. G. HALE,

Of counsel for complainants.

UNITED STATES OF AMERICA,

District of Texas.

I, John Treanor, of the city of Matamoras, and the State of Tamaulipas, being duly sworn, depose and say: That I am the agent and attorney in fact of Don Rafael Garcia Cavazos, Doña Maria

Josefa Cavazos, and Doña Estafana Goseascochea de Cortina, named in the title to the foregoing bill of complaint, and that I am well acquainted with the nature and character of the title of Don José Salvador de la Garza, set forth in the foregoing bill, and the manner in which the said title has passed to the present heirs, as well as the names of such heirs and their predecessors, and that the statements contained in the said bill, with reference thereto, are correct and true; and that I am further well acquainted with the acts of the defendants to the said bill referred to therein, and that the statements therein contained with reference thereto are also true, in substance and in fact; and, in general, that I believe that what is contained in the stating part of said bill, from the middle of the first page to the fifth line in the sixth page, is correctly stated and set forth.

And I do further depose, that the acts of the defendants, as stated in the said bill, will do irreparable injury to the complainants, unless a stop is soon put to them; and that there is great danger that the said defendants will sell portions of the said tract of land mentioned in the said bill, under such claims and pretended titles as the said bill mentions, if the courts of the United States do not speedily interpose.

JOHN TREANOR.

Subscribed and sworn to this 9th day of January, A. D. 1849, before me,

A. M. HUGHES, *Commissioner*.

And thereupon, to wit, on the same day and year, there issued from the clerk's office of our said court a subpoena in chancery, in the words and figures following, that is to say:

Subpœna.

UNITED STATES OF AMERICA,

District of Texas.

The President of the United States of America to Richard Fitzpatrick, greeting:

You are hereby commanded to appear personally before the honorable the United States district court, exercising the powers and jurisdiction of a circuit court of the United States, at a court to be holden in the city of Galveston, in and for said district, on the first Monday of March next or whensoever the said court shall there be, to answer a bill exhibited against you, and Charles Stillman, P. C. Shannon, Samuel Belden, and W. W. Chapman, by Rafael Garcia Cavazos and others, and to do further and receive what the said court shall have considered in that behalf. And this you are not to omit under the penalty of two hundred and fifty dollars.

Witness, the honorable John C. Watrous, judge of said court, and seal of court at the city of Galveston, this 12th day of January, [SEAL.] A. D. eighteen hundred and forty-nine, and the seventy-third year of the independence of the United States.

JAMES LOVE, *Clerk*.

The defendant is required to enter his appearance in the above suit in the clerk's office on or before the first Monday in March next, otherwise the bill will be taken as confessed.

JAMES LOVE, *Clerk.*

Notice.

To Charles Stillman, Samuel Belden, P. C. Shannon, and Richard Fitzpatrick :

GENTLEMEN : Please to take notice that on the first Monday of March, 1849, or as soon thereafter as counsel can be heard, we shall move for an injunction against you in behalf of the complainants in the within writ, for the purposes stated in their bill now filed.

EBN. ALLEN & WM. G. HALE,
Solicitors for complainants.

And endorsed on said writ is the return of the marshal in the words and figures following, to wit :

Received 12th January, 1849, and executed 23d January, 1849, by exhibiting to Richard Fitzpatrick in person this subpoena, and by serving him with a true copy thereof.

JAS. H. COOKE, *Marshal.*

By D. AYRES, *D. Marshal.*

And thereupon, to wit, on the same day and year, there issued from the clerk's office of our said court a subpoena in the following words and figures :

Subpœna.

UNITED STATES OF AMERICA,
District of Texas.

The President of the United States of America to Charles Stillman, Samuel Belden, and P. C. Shannon, greeting :

You are hereby commanded to appear personally before the honorable the United States district court, exercising the powers and jurisdiction of a circuit court of the United States, at a court to be holden in the city of Galveston, in and for said district, on the first Monday of March next, or whensoever the said court shall there be, to answer a bill exhibited against you, and Richard Fitzpatrick, and W. W. Chapman, by Rafael Garcia Cavazos and others, and to do further and receive what the said court shall have considered in that behalf ; and this you are not to omit under the penalty of two hundred and fifty dollars.

Witness, the honorable John C. Watrous, judge of said court, and seal of court at the city of Galveston, this twelfth day of [SEAL.] January, A. D. eighteen hundred and forty-nine, and the seventy-third year of the Independence of the United States.

JAMES LOVE, *Clerk.*

The defendant is required to enter his appearance in the above suit in the clerk's office on or before the first Monday of March next, otherwise the bill will be taken as confessed.

JAMES LOVE, *Clerk.*

Notice.

To Charles Stillman, Samuel Belden, P. C. Shannon, and Richard Fitzpatrick :

GENTLEMEN: Please to take notice, that on the first Monday of March, 1849, or as soon thereafter as counsel can be heard, we shall move for an injunction against you on behalf of the complainants in the within writ for the purposes stated in their bill now filed.

EBN. ALLEN & WM. G. HALE,
Solicitors for complainants.

And endorsed on said writ is the return of the marshal on the same in the words and figures following, that is to say—

Received 12th day of January, 1849, and executed the 23d day of January, 1849, by exhibiting to Samuel Belden and P. C. Shannon in person this subpoena, and by serving them with a true copy thereof, Charles Stillman not found.

JAS. H. COOKE, *Marshal.*

By D. AYRES, *D. Marshal.*

And afterwards, to wit, on the fifth day of February of the same year, came the complainants by their attorneys, and filed their motion for injunction, which is of the words and in the order following, to wit :

Motion for Injunction.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

Between

DON RAFAEL GARCIA CAVAZOS *et al.*, complainants, }
and
CHARLES STILLMAN *et al.*, defendants. }

In Chancery.

Ebenezer Allen and William G. Hale, of counsel for the complainants in the above entitled cause, move this honorable court to grant to the said complainants a writ of injunction against the said defendants for the purposes specified in the prayer for relief of the bill of complaint now on file during the pendency of the said cause; and they refer in support of this motion to the said bill, and the affidavits to be produced at the hearing of this motion.

EBN. ALLEN & WM. G. HALE,
of Counsel for Complainants.

FEBRUARY 5, 1849.

This motion is set down for hearing at the first Monday of March next, or as soon thereafter as counsel can be heard.

EBN. ALLEN & WM. G. HALE,
Solicitors for Complainants.

And afterwards, to wit, on the 6th day of February, of the same year, there issued from the clerk's office of our said court a subpoena in chancery in the words and figures following, to wit:

Subpoena.

UNITED STATES OF AMERICA,
District of Texas.

The President of the United States of America to Charles Stillman, greeting:

You are hereby commanded, as you have before been, to appear personally before the honorable the United States district court, exercising the powers and jurisdiction of a circuit court of the United States, at a court to be holden in the city of Galveston, in and for said district, on the first Monday of March next, or whensoever the said court shall there be, to answer a bill exhibited against you, Samuel Belden, P. C. Shannon, Richard Fitzpatrick, and W. W. Chapman, by Rafael Garcia Cavazos and others, and to do further and to receive what the said court shall have considered in that behalf; and this you are not to omit under the penalty of two hundred and fifty dollars.

Witness the honorable John C. Watrous, judge of said court, and seal of court at the city of Galveston, this sixth day of February, A. D. eighteen hundred and forty-nine, and seventy-third year of the Independence of the United States.

[SEAL.]

JAMES LOVE, *Clerk.*

The defendant is required to enter his appearance in the above suit in the clerk's office on or before the first Monday of March next, otherwise the bill will be taken as confessed.

JAMES LOVE, *Clerk.*

Notice.

To Charles Stillman:

SIR: Please to take notice that we shall move for an injunction for the purposes mentioned in the bill of complaint during the pendency of the cause, on the first Monday of March next, or as soon thereafter as counsel can be heard.

EBN. ALLEN & WM. G. HALE,
Solicitors for Complainants.

And endorsed upon said writ is the return of the marshal thereon, in the words and figures following, that is to say:

Received, 6th February, 1849. Not found in my district.

JAS. H. COOK, *Marshal.*

By H. B. MARTIN, *Deputy Marshal.*

Motion to show authority.

RAFAEL GARCIA CAVAZOS and others, }
vs. }
 CHARLES STILLMAN and others. }

In Equity.

IN UNITED STATES DISTRICT COURT,
District of Texas.

Rice Garland, solicitor for defendants, Fitzpatrick and Shannon, prays the court to order that the plaintiffs, by themselves or their solicitors, come before James Love, esquire, master, &c., and show by what authority they, and each of them, respectively, instituted this suit, or caused the same to be instituted; and the said master do make report thereof on or before the first Monday in June next.

RICE GARLAND,
Solicitor and counsel.

Granted.

WATROUS.

March 3, 1849.

And afterwards, to wit: on the twenty-eighth day of May of the same year, came John Treanor, and filed his affidavit herein, which is in the words and figures following, that is to say:

Affidavit of John Treanor.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

Between

RAFAEL GARCIA CAVAZOS *et als.*, complainants, }
 and }
 CHARLES STILLMAN *et als.*, defendants. }

In Chancery.

Affidavit of John Treanor, of Matamoras, to be read upon the hearing of the motion for an injunction in the above entitled cause, and at such other times as it may be necessary on the part of the complainants.

I, John Treanor, being duly sworn, depose and say, that I here repeat the statements contained in my former affidavit in this cause, made on the ninth day of January, A. D. 1840, and declare the same to be true as therein set forth; and in addition thereto, and confirmation thereof, I further say that the said Charles Stillman and

Samuel A. Belden, defendants in this cause, have made and executed to sundry purchasers many deeds or bonds for titles to lots of land in the town of Brownsville, mentioned in the bill of complaint in this cause, whereby they, together with one Jacob Mussina, (who is not, as I am informed and believe, now within the jurisdiction of this honorable court,) acknowledge that they have sold to the said purchasers the lots of land aforesaid, being a part of the tract of land owned and held by the said complainants, as stated in their bill of complaint; and further contract and bind themselves to execute to the said purchasers warrantee deeds for said lots upon the payment of the full amount of the purchase money; and I annex to this affidavit copies of the record of two of said deeds or bonds, marked *A* and *B*, taken from the record books of Cameron county, the originals whereof cannot now be procured by the said complainants or myself.

And I further depose and say, that there have appeared at sundry times since the beginning of the year 1848, in the public newspaper published in the said town of Brownsville, and called "The American Flag," Cameron County and Matamoras Advertiser, several advertisements over the name of the said Charles or C. Stillman, Samuel A. or S. A. Belden, and Jacob or J. Mussina, (true copies of one of which, together with the original, I here annex to this affidavit, marked 1,) wherein the said Charles Stillman, Samuel A. Belden, and Jacob Mussina hold themselves forth as the proprietors of the town site of the said town of Brownsville, and offer to sell lots within the same.

And I further depose and say, that the said Patrick C. Shannon, one of the said defendants, has, at sundry times since the beginning of the year 1848, made and executed to purchasers and others many deeds of conveyance of lots or parcels of land in the so-called city or town of Freeport, which said city or town is situated upon the tract of land owned and held by the said complainants, as is stated in their said bill of complaint, whereby the said Shannon professes to convey to the said purchasers and others the legal title to the said lots or parcels of land; and I here annex, as parts of this affidavit, copies of the record of two of said deeds, marked *C* and *D*, taken from the record books of the said county of Cameron, the originals whereof cannot now be procured by the said complainants or myself.

And I further depose and say, that there have appeared at sundry times since the beginning of the year 1848, in the public newspaper before mentioned, several advertisements over the name of the said Patrick C. or P. C. Shannon, (true copies of two of which, together with the originals, I here annex to this affidavit, marked 2 and 3,) wherein the said Patrick C. Shannon holds himself forth as the proprietor of the said site of the town or city of Freeport, and offers to sell lots within the same.

And I further depose and say, that upon my application to George Lyon, deputy surveyor for the district of San Patricio, the said Lyon gave me the annexed copy of certain field notes of a survey made within the said district for the said Patrick C. Shannon, the copy being signed by the said Lyon, and now marked *E*.

And I do further depose and say, that I am acquainted with the handwriting of Don Rufino Rodriguez, and that I know him to have been chief clerk or official mayor in the office of the secretary of the State of Tamaulipas at the time of subscribing the several documents hereto annexed, and marked *F*, *G*, *H*, *I*, *J*, and that he was then acting as such chief clerk or official mayor, and acting in the place of the said secretary during his absence, and that his signature to such documents is genuine and true; and that I also am acquainted with the handwriting of Don Antonio Ximenes Valdez and Don Cepnano Guerrero, and that I know them to have been acting as notaries public at the time of subscribing the certificates annexed to the said documents, and that their signatures thereto are genuine and true.

And I do further depose and say, that I am acquainted with the handwriting of Don Jesus Cardenas and Doctor Ramon F. Valdez; that I know them to have been respectively the governor and the secretary of state of the State of Tamaulipas at the time of signing of the document hereto annexed, marked *K*, and that their signatures to such document are genuine and true.

And I do further depose and say, that I am well acquainted with the affairs of the said complainants, and especially with such of them as have a peculiar and acknowledged claim upon a partition of the said tract of land now held by them, to that portion thereof wherein the town of Brownsville aforesaid is situated, extending also along the Rio Grande for about one league above, and below the point opposite to the city of Matamoras; and I am satisfied that I should have known if any of the said complainants, or those from whom they derive title, as stated in their bill of complaint, had received from the ayuntamiento of the town or city of Matamoras any compensation for the pretended appropriation by the said town or city, or the ayuntamiento thereof, of the portion of the said tract of land opposite said city or town, under the name of *ejidos*; and that I do firmly believe and declare as true that none of the said complainants have ever received such compensation.

And I do further depose and say, that I am acquainted with the handwriting of Andres Treviño and Joaquin Arguellas; that I know them to have been respectively secretary of the ayuntamiento of Matamoras and notary public at the time of signing the paper hereto annexed, and marked *L*, and that their signatures thereto are genuine and true.

And I do further depose and say, that the stamped seals upon the documents hereinbefore referred to, marked *F*, *G*, *H*, *I*, *J*, are the impressions or stamps of the seal of office of the secretary of state of the State of Tamaulipas, and so used for the purpose of authenticating documents; and that the like seal on the other document hereinbefore referred to, marked *K*, is the stamp or the seal of the government or executive of the said State, and so used for the purpose of authenticating the decrees of the congress of the said State; and that the notaries public hereinbefore mentioned do not use seals, but that their scroll or flourish is used and received in place of a notarial seal, and receives the same faith and credit, and that there is no

great seal of the said State of Tamaulipas other than the above mentioned seal of the government or executive thereof.

JUAN TREANOR.

UNITED STATES OF AMERICA, }
District of Texas. }

Personally appeared on this, the 28th day of May, A. D. 1849, before me, Archibald M. Hughes, a commissioner of the United States of America, duly appointed and authorized by the district court of the said United States aforesaid, having the powers and jurisdiction of a circuit court, to take acknowledgments of bail and affidavits within the said district, John Treanor, of the city of Matamoras, in the State of Tamaulipas, and of the United Mexican States, who, being duly sworn by me, did declare the contents of the foregoing affidavit to be true, and did thereupon subscribe the same as above. To all which I hereby certify.

A. M. HUGHES,
Commissioner.

And afterwards, to wit, on the second day of June of the same year, the complainants filed their answer to the rule of the defendants, in the words and figures following, that is to say :

Answer to rule.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In chancery.

Between { RAFAEL GARCIA CAVAZOS and others, complainants,
 and
 CHARLES STILLMAN and others, defendants

The complainants in the above entitled cause, by Ebenezer Allen and William G. Hale, their solicitors and counsel, protesting against the regularity and sufficiency of the rule or order granted to the defendants therein, on the third day of March, A. D. 1849, nevertheless, without prejudice to such their protest, and in compliance with the said order, say, that the authority by which they have caused the said cause to be instituted is that which they possess as heirs of Don Salvador de la Garza, and purchasers under him, as is freely set forth in their bill of complaint, and as the rightful owners of the tract of land in such bill described. And they submit to the master appointed to report herein, whether they ought, according to the practice of this honorable court, to make any further or other answer to said rule or order, and request him to report his decision thereon to the court.

EBN. ALLEN and WM. G. HALE,
Solicitors and counsel for complainants.

JUNE 2, 1849.

And afterwards, to wit, upon the same day and year, came the complainants herein by their counsel, and amended their bill of complaint, which said amendment is in the words and figures following, that is to say :

Amended bill.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In chancery.

The amendment of DON RAFAEL GARCIA CAVAZOS, DOÑA MARIA JOSEFA CAVAZOS, his wife, DOÑA ESTAFANA GOZEASCOCHEA DE CORTINA, DOÑA FELICIANA DE TIGERINA, DOÑA ANGELA GARCIA SAFEN DE TARNEVA, DON RAMON SAFEN, minor son of the said DOÑA ANGELA GARCIA SAFEN DE TARNEVA, appearing by his said mother and next friend, (Don Constantino Tarneva having died since the filing of the original bill of complaint,) and DON MANUEL PRIETO, complainants, to their bill of complaint,

against

CHARLES STILLMAN, SAMUEL A. BELDEN, RICHARD FITZPATRICK, P. C. SHANNON, and W. W. CHAPMAN, defendants.

These complainants, under the twenty-eighth rule of this honorable court, adopted and prescribed by the Supreme Court of the United States of America, for the regulation of the practice of the circuit courts of the said United States in chancery, and their said bill of complaint, by making therein, and in all subsequent proceedings, the following corrections of names, and by their filling up the following blanks:

First. They insert instead of the initial "P," in the twenty-first line of the first page, the name "Patrick."

Second. They insert between the names "Samuel" and "Belden," the initial "A" on the twenty-second and twenty-third lines of the first page.

Third. They insert in the blank on the twenty-eighth line of the second page, after the word "with," the name Doña Maria Gertudis de la Garza Falcon.

Fourth. They alter the names on the thirtieth and thirty-first lines of the second page, and wherever else they shall occur, so that they shall read, "Doña Francesca Xaviera de la Garza," and "Doña Maria Antonia Margarita de la Garza."

Fifth. They insert in the blank in the thirty-fifth line of the second page, after the word "thousand," the words "seven hundred and ninety-two."

Sixth. They insert in the blank on the thirty-seventh line of the second page, after the word "Lord," the words "one thousand eight hundred and two."

Seventh. They insert in the blank in the eighth line of the third page, after the word "Lord," the words "one thousand eight hundred and thirty-five."

Eighth. They insert in the blank in the twenty-fifth line of the third page, after the word "Lord," ———

Ninth. They insert in the blank on the thirty-first line of the third page, after the word "Lord," the words "one thousand seven hundred and eighty-seven."

Tenth. They insert in the blank on the thirty-fourth line of the third page, after the word "Lord," the words "one thousand eight hundred and thirty-three."

Eleventh. They insert in the blank on the third line of the tenth page, after the word "Lord," the words "one thousand seven hundred and eighty-three."

Twelfth. They alter the names Don Pedro Prieto, Don Antonio Prieto, and Don Manuel Prieto, wherever they occur, so that they shall read, respectively, Don Pedro Lopez Prieto, Don Josef Antonio Margil Prieto, and Don Josef Manuel Prieto.

Thirteenth. They insert in the blank on the tenth line of the fourth page, after the word "Lord," the words "one thousand eight hundred and twenty-four."

Fourteenth. They insert in the blank on the thirty second line of the third page, after the word "with," the words "Don José Gozeascochea."

Fifteenth. They alter the name in the eleventh line of the fourth page, and wherever else it occurs, so that it shall read, "Doña Maria Angela, or (De los Angeles) Garcia."

And these complainants also amend their said bill, upon knowledge of the fact obtained since the filing thereof, by striking out the passage on the second page from the words ["and that"] in the thirty-first line to the words "tract of land" on the thirty-fourth line, and by inserting in place thereof the following: "and that their said father died some time before the year of our Lord one thousand seven hundred and eighty-nine, and their said mother died shortly after that year, leaving their two first mentioned children, and the two sons hereinafter named, of Doña Maria Antonio Margarita de la Garza, who had died in the lifetime of her said mother, as their sole heirs of the said tract of land."

UNITED STATES OF AMERICA, }
District of Texas. }

I, John Treanor, of Matamoras, make oath and say that, since the filing of the original bill of complaint, I have more accurately learned the names of several of the parties and their ancestors, and also the dates of the transactions mentioned in the said bill without date, so far as they are set forth in the foregoing amendment; that I have carefully read over the said amendment; and that from a full knowledge of the various names and dates mentioned therein, derived from ancient records in the parish churches of Matamoras and Camarga, and Reinosá, I do verily believe and here state such names and dates,

And afterwards, to wit, on the twenty-third day of June of the same year, at the June rules of said court, the following rule was entered, that is to say :

Rule.

RAFAEL GARCIA CAVAZOS *et als.* }

vs.

CHARLES STILLMAN *et als.* }

The complainants in the above entitled cause, with leave of the court, withdraw the decree *pro confesso* entered against the defendants, Fitzpatrick and Shannon, on the first Monday of June, 1849, without prejudice to either party.

E. ALLEN & W. G. HALE,
Solicitors for Complainants.

JUNE 23, 1849.

And afterwards, to wit, on the twenty-seventh day of June of the same year, there issued from the clerk's office of our said court, a subpoena, in the words and figures following, to wit :

Subpoena.

UNITED STATES DISTRICT COURT,
District of Texas.

The President of the United States of America to the marshal or any of his lawful deputies of the district of Texas, greeting :

You are hereby commanded to summon R. H. Hord to appear before me instantler, at the court-room of the United States district court at Galveston, then and there to give evidence before me, upon a motion referred to me as master in chancery, made by Charles Stillman *et al.*, against Rafael Garcia Cavazos *et al.*, plaintiffs, to show cause upon what authority the said plaintiffs had instituted their suit aforesaid ; the said R. H. Hord to bring with him all papers and other instruments in writing that may be in his possession in any wise appertaining to the right of said Cavazos or other plaintiffs to institute the suit aforesaid against the defendants.

Witness the Hon. John C. Watrous, judge of said court, at the city of Galveston, on the 27th June, 1849, and in the 73d year of the Independence of the United States.

JAMES LOVE,
Master in Chancery.

Received 27th June, 1849, and executed 28th June, 1849, by summoning the within named witness.

J. BATES, *U. S. Marshal.*
By E. BATES, *Dep. Marshal.*

And afterwards, to wit, on the twenty-eighth day of June of the same year, came Rice Garland, solicitor for defendants, and filed his motion herein, which is of the words and in the tenor following, that is to say :

Motion.

UNITED STATES DISTRICT COURT,
State and District of Texas.

RAFAEL GARCIA CAVAZOS and others	} In Chancery.
<i>vs.</i>	
CHARLES STILLMAN and others.	

Rice Garland, solicitor for the defendants, Patrick C. Shannon and Richard Fitzpatrick, in consideration of the affidavit filed this day by said solicitor, prays the court to refer this case to James Love, esq., master, &c., for the purpose of taking testimony and reporting to the court whether or not Doña Feliciana de Tigerina, Manuel Prieto, the late Don Constantino Tarneva, in his lifetime, or Doña Maria Angela Garcia, now widow Tarneva, and formerly widow Safen, since the death of said Tarneva, as the next friend or guardian of Ramon Safen, ever authorized the institution and prosecution of this suit in their names by the solicitors on record, or ever authorized John *alias* Juan Treanor to institute and prosecute the same in their names or the name of either of them, and also inquire by whose authority and at whose instance the said suit is now being prosecuted in the names of the aforesaid parties as plaintiffs, and make report without delay, this motion as an amendment to, and as an enlargement of the order entered March 3d, 1849.

R. GARLAND,
Solicitor for Defendants.

JUNE 28, 1849.

And afterwards, to wit, on the same day and year came Rice Garland, solicitor for defendants, and filed his affidavit herein, which is in the words and figures following, that is to say:

Affidavit of Rice Garland.

UNITED STATES OF AMERICA,
State and District of Texas.

Personally appeared before the undersigned authority Rice Garland, who, being duly sworn according to law, declares and says he is the solicitor of the defendants, Patrick C. Shannon and Richard Fitzpatrick, in the suit instituted on the equity or chancery side of the district court of the United States in and for the district and State of Texas by Rafael Cavazos and others *versus* Charles Stillman and others, and that he is also attorney in fact for the said Patrick C. Shannon. He further declares that he is well informed and verily believes that Doña Feliciana de Tigerina, Don Manuel Prieto and Doña Maria Angela Garcia, the next friend of Don Ramon Safen, her son, the Don Constantino Tarnera, in his lifetime, whose names are inserted in the bill of complaint as plaintiffs, never did authorize the institution of this suit or bill of complaint against the

defendants, either by employing the solicitors on record to commence said suit, or otherwise, any other person to institute this suit; and these facts affiant is ready to prove.

R. GARLAND.

Sworn and subscribed before me on June 28, 1849.

JAMES SEVELLECK.

And afterwards, to wit: on the same day and year, James Love, esquire, master in chancery, filed his report herein, in the following words, that is to say:

Report of master.

RAFAEL GARCIA CAVAZOS *et al.* }

vs.

CHARLES STILLMAN *et als.* }

In obedience to a rule of the honorable court, made on the 3d of June, 1849, a copy of which is referred to, marked *A*, the solicitors for the plaintiff and defendant appeared before me on this day; they respectively waived any objection to the time of inquiry. The plaintiff's solicitors read and filed the paper marked *B*, as an answer to the rule, which was rejected as an insufficient response to the spirit and object of the rule. The defendants, by their solicitor, offered to introduce William G. Hale, esquire, one of the plaintiff's solicitors, to prove that he had authority from Doña Feliciano de Tigerina, Angela Garcia Safen de Tarneva, and Don Manuel Prieto, three of plaintiffs for the institution of this suit. They also offered to prove by R. H. Hord, esq., and certain instruments in writing in his possession, that the above named plaintiffs had never authorized the institution of this suit. All this evidence was rejected by the master, being of opinion that the rule gave him no authority to receive proof but from the plaintiffs or their solicitors.

The master therefore reports that the plaintiffs, or either of them, have not, in person, shown or given any answer to the rule. And further reports that the answer of plaintiff's solicitor is insufficient, and is not responsive to the rule. And therefore reports that no authority has been shown by the plaintiffs, or either of them, or by their solicitors, for the institution of the suit; all of which is respectfully submitted.

JAMES LOVE, *Master.*

JUNE 27, 1849.

A.

THE UNITED STATES DISTRICT COURT,
District of Texas.

DON RAFAEL GARCIA CAVAZOS and others }
vs. } In Equity.
CHARLES STILLMAN and others.

Rice Garland, solicitor for defendants, Fitzpatrick and Shannon, prays the court to order that the plaintiffs, by themselves or their solicitors, come before James Love, esquire, master, &c., and show by what authority they and each of them, respectively, instituted this suit, or caused the same to be instituted, and the said master do make report thereof on or before the first Monday in June next.

MARCH 3, 1849.

RICE GARLAND,
Solicitor and Counsel.

Granted.

WATROUS.

B.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Between { RAFAEL GARCIA CAVAZOS and others, complainants,
and
CHARLES STILLMAN and others, defendants.

The complainants in the above entitled cause, by Ebenezer Allen and William G. Hale, their solicitors and counsel, protesting against the regularity and sufficiency of the rule or order granted to the defendants therein, on the third day of March, A. D. 1849, nevertheless without prejudice to such their protest, and in compliance with the said order, say : That the authority by which they have caused the said cause to be instituted is that which they possess as heirs of Don Salvador de la Guraga, and purchasers under him, as is fully set forth in their bill of complaint, and as the rightful owners of the tract of land in such bill described, and they submit to the master appointed to report herein, whether they ought, according to the practice of this honorable court, to make any further or other answer to said rule or order, and request him to report his decision thereon to the court.

EBEN. ALLEN & W. G. HALE,
Solicitors and of Counsel for Complainants.

JUNE 2, 1849.

And afterwards, to wit : on the same day and year, came Rice Garland, esquire, solicitor for defendants, and filed a motion herein, which is in the following words and figures, that is to say :

Motion.

UNITED STATES DISTRICT COURT,
State and District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. } In chancery.
 CHARLES STILLMAN and others.

The defendants, Patrick C. Shannon and Richard Fitzpatrick, by their counsel, pray the court to order that the complainants be ordered on or before the first rule day, or within some reasonable time, if that time be too short, to file in court the originals of the pretended title papers or muniments of title under and by virtue of which they claim the land and premises in controversy, so that the defendants may have oyer and information of the same, and be enabled to answer truly and plead in the manner required by law.

R. GARLAND,
Solicitor for defendants.

JUNE 28, 1849.

And afterwards, to wit, on the twenty-ninth day and year, came _____ Howard, solicitor for Charles Stillman, defendant herein, and filed his motion, which said motion is of the words and in the terms following, that is to say :

Motion.

IN THE UNITED STATES DISTRICT COURT
in and for the District of Texas.

CAVAZOS *et al.* }
vs. } Bill in equity.
 STILLMAN *et al.* }

The affidavit of Simon Mussina is filed herewith, and the defendant, Charles Stillman, respectfully moves the court to extend the time for him to answer in this case till the next term, for the reasons in said affidavit set forth.

HOWARD,
For defendant.

JUNE 28, 1849.

And afterwards, to wit, on the same day and year, came Simon Mussina, and filed his affidavit in support of the foregoing motion, which said affidavit is in the words and figures following, to wit :

Affidavit of Simon Mussina.

IN THE DISTRICT COURT OF THE UNITED STATES, *District of Texas.*

DON RAFAEL GARCIA CAVAZOS and others

vs.

CHARLES STILLMAN and others.

} Bill in equity.

Simon Mussina, being duly sworn according to law, deposes and says, that he is the attorney and agent of Jacob Mussina, who is jointly interested with Messrs. Belden and Stillman in the property in which the town of Brownsville is situated, as described and claimed in this suit; that he is well acquainted with Charles Stillman, one of the defendants in this suit; that, at the time the bill was filed in this case, said Stillman was absent at the city of New York or thereabouts, out of the State of Texas, and has so remained absent up to the present time; that it was expected said Stillman would have returned in time to have made and filed his answer at this term of the court, but that he has been deterred unavoidably, and has not yet returned. That he could not make and file his answer without reference to facts, papers, and documents, not accessible to him in New York, or elsewhere out of Texas; that the process was not served on him in this case, and that he does not absent himself to avoid answering or submitting to the jurisdiction of the court; that he has reason to believe, and does believe, that said Stillman will return to Texas before the next term of the court, and that he will, on or before the first day of said term, make and file his answer in this case. He therefore, on behalf of said Stillman, prays the court to extend the time for him to answer until the first day of the next term of this court. He further states that said Stillman and S. A. Belden are partners jointly interested in the said Brownsville property, and the answer of said Stillman will no doubt be *in toto*, or in substance, the same as that of said Belden, filed in this cause.

SIMON MUSSINA.

Sworn and subscribed before me this 29th day of June, 1849.

JAMES LOVE, *Clerk.*

And afterwards, to wit, on the same twenty-ninth day of June of the same year, came Basse and Hord, solicitors for the following parties hereto, and filed their motion herein, which is in the following words and figures, that is to say:

Motion.

IN THE UNITED STATES DISTRICT COURT

in and for the District of Texas.

DON RAFAEL GARCIA CAVAZOS *et als.*

vs.

CHARLES STILLMAN and others.

On behalf of Don Manuel Prieto, Doña Feliciano Gozeascochea de Tigerina, and Doña Angela Garcia de Tarneva, in her own right and

in right of her son, Don Ramon Safen, and of Don Constantino Tarneva, deceased, late her husband, as his representative, designated and styled plaintiffs in this cause. Basse and Hord, of counsel for them, move the court to dismiss this case so far as they are concerned therein, at the cost of those parties by whom it was instituted. The deposition of R. H. Hord, esquire, herewith filed, exhibits the reasons on which this motion is founded and will be insisted upon.

BASSE & HORD,

Of counsel for the above named parties.

And afterwards, to wit, on the same day and year, Robert H. Hord, esquire, filed his affidavit herein, which said affidavit is in the words and of the tenor following, that is to say :

Affidavit of R. H. Hord.

IN UNITED STATES DISTRICT COURT OF THE UNITED STATES,
District of Texas.

DON RAFAEL GARCIA CAVAZOS *et als.* }
vs. }

CHARLES STILLMAN and others. }

Robert H. Hord, being duly sworn according to law, deposes and says that, about the month of September, A. D. 1848, he and Elisha Basse, esquire, were requested by Don Constantino Tarneva to institute a suit in the name of himself and of his wife, Doña Angela Garcia de Tarneva, and Don Ramon Safen, in the district court of Texas, for the county of Cameron, against Don Rafael Garcia Cavazos and Josefa, his wife, Don Manuel Prieto, Doña Feliciana Gozeascochea de Tigerina, and Doña Estafana Cozeascochea de Cortina, as the legal representatives of Don José Salvador de la Garza, to obtain a partition of a certain tract of land known as "El Patrero del Esperitu Santo," being the same as is incorrectly described in complainants' bill in this cause filed, as to its eastern line, and was then held and possessed by the said Tarneva and the aforementioned parties in common; that afterwards, and about the 9th of the following month of October, this deponent and the said Basse were requested by Don Manuel Prieto and Doña Feliciana Gozeascochea de Tigerina to represent them in said suit for partition; and to unite in the prayer of the petitioner for the same; that at the ensuing term of said district court the prayer of the petitioner was granted, and a decree was entered providing for the making of the same; that before any action was had under this decree of said court for this partition, Don Rafael Garcia Cavazos, plaintiff in the foregoing entitled cause, instigated and set on by John Treanor, as this deponent is informed and believes, applied to the Hon. M. P. Norton, judge of aforesaid district court for the county of Cameron aforesaid, for and obtained an injunction restraining all proceedings under the aforesaid decree; that since then no district court has been held in said county, and thereby the aforesaid injunction remains undissolved; that at this

time the *testimonio* or title to their land was and had long been in the possession and custody of the aforesaid Doña Feliciana Gozeascochea de Tigerina, and that the aforesaid Treanor, under the pretence of having the same archived in the land office of the State of Texas, at Austin, applied for and obtained by this means the said title, and thereupon caused the preceding suit to be instituted in this court, without the sanction of the said Tarneva, his wife, or stepson, the said Prieto and Tigerina, and contrary to their desire; that the last named persons consider the conduct of the said Treanor meddling and vexatious, and calculated to subject them not only to serious inconvenience, but to heavy pecuniary loss, and have so informed this deponent; and have since by a letter from attorney appointed this deponent and said Basse their attorneys and agents, charging them with the free and entire control and management of their interests in and about said lands, and desired them to ask that this suit be dismissed at the costs of said Cavazos and Treanor, or the persons causing the same to be instituted. And the said parties have further assured this deponent that they had not employed or charged any other persons whatever as attorneys for them, in or about this land, since retaining this deponent and the said Basse as above set forth. And this deponent further states that each and every of the parties represented by himself and the said Basse will, as he verily believes, make affidavit to the foregoing facts, if the court shall deem the same necessary.

ROBERT H. HORD.

Subscribed and sworn to before me the 29th June, 1849.

JAMES LOVE, *Clerk.*

And afterwards, to wit, on the same day and year, Samuel A. Belden, one of the defendants hereto, filed his answer to the bill of complainants; which said answer is in the words and figures following, that is to say:

Answer of Samuel A. Belden.

In chancery.

IN THE UNITED STATES DISTRICT COURT,
For the District of Texas.

The separate answer of Samuel A. Belden (in the bill of complaint called Samuel Belden) to the bill of complaint of Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, Doña Estafana Gozeascochea de Cortina, Doña Feliciana de Tigerina, Don Constantino Tarneva, Doña Angela Garcia de Tarneva, Don Ramon Safen, and Don Manuel Prieto, exhibited against Charles Stillman, Richard Fitzpatrick, P. C. Shannon, Samuel Belden, and W. W. Chapman.

The said respondent, Belden, reserving to himself all objections to the numerous imperfections, insufficiencies, and informalities in complainants' bill contained, for answer to so much of said bill as he is advised is necessary for him to answer, says: That it is true that he

is in possession of a certain tract of land, described in complainants' bill, embracing the town of Brownsville, and that the said respondent claims the same in his own right. Respondent knows nothing, of his own knowledge, of the truth of the heirship of the complainants, or their connexion with the fraudulent grantee, under whom complainants claim, and he requires strict proof of the same.

Respondent further answering says: That previous to the time of the origin of his rights, he had heard that complainants, or some of them, set up a claim to a tract of land on the east bank of the Rio Grande, but he was not aware that said complainants set up any right or claim to the tract which is the present site of the town of Brownsville.

Respondent further alleges that he is advised and so charges the fact that the pretended grant, under which the complainants claim, is null and void; that after the revolution in Mexico and separation of that country from Spain, and after the independence and establishment of the government of the Mexican republic, to wit, in the year 1826 and in subsequent years, the State of Tamaulipas, within whose jurisdiction said lands claimed by complainants were situated, passed laws by which the complainants or the original grantee of said lands were compelled to take out new titles, or in default thereof forfeited all right to said lands. Respondent is informed and believes that neither the said complainants nor the original grantee ever took out said titles according to law; and, in default thereof, said title or pretended right became void and of no validity. Respondent further alleges that he is informed and believes * * * [Here follows half a page of fragments, marked struck out.] * * * that in the pretended grant under which complainants claim, in their bill described, there is an express reservation of a right by the government to take any part of said land for a town, or for the benefit of any town or city to be thereafter established, the owners being entitled to compensation for the same. Respondent further alleges that the congress of Tamaulipas, in the exercise of the right so reserved, and with full power to do so under the laws and constitution of said State, proceeded to set aside and appropriate said land, or the quantity of ———— for the use, benefit, and property of the city of Matamoras, which was done by an act of congress of said State, at Victoria, on the 5th day of October, A. D. 1826; that said appropriation was a valid transfer to the city of Matamoras of all the right, title, and interest which the original grantee, or his heirs, legatees, and legal representatives had in and to the lands in controversy; that the same was a valid and binding transfer and appropriation, and legal, as respondent is advised, and in all respects according to the laws of said State. Respondent does not know, of his own knowledge, whether the complainants or the then claimants of said land received compensation. It was their own fault in refusing to name appraisers and take the necessary steps required by law to that end, which they have always neglected, as respondent is informed and believes. Respondent is advised that, under the laws

of Tamaulipas, previous payment was not necessary to a valid appropriation of said land to the use of said city.

Respondent further alleges that the city of Matamoras, through its regular and legally constituted authorities, took possession of said land, and had the same surveyed and set apart for city purposes, under and by virtue of said decree of the congress of the State of Tamaulipas; that said tract, so set apart and appropriated, embraced that tract, or a large portion thereof, upon which the town of Brownsville is now situated, and in possession of and claimed by respondent. Said town tract so set apart and dedicated to the city of Matamoras on the east bank of the Rio Grande is bounded as follows: —

Respondent further alleges that, after the city authorities of Matamoras had so taken possession of said land under the dedication and transfer aforesaid, they proceeded, as by law they had a right to do, from time to time to sell, convey, and grant portions of said land to various persons, among others to —

Respondent further charges that he and the said — have held peaceable and adverse possession of said land for these five, ten, and twenty years next before the exhibition of complainants' bill under said city title, and the said respondent pleads and relies upon the statutes of limitation and prescription, and alleges that the said lands have been held and possessed adversely to complainants' claim, by the said city of Matamoras and its vendees, since the original appropriation and dedication to said city in the year 1826, by an act of the congress or legislature of the State of Tamaulipas.

Respondent further alleges that some of the pretended claimants, to wit, — took leases or conveyances under said city, and are thereby estopped to set up said title in opposition to rights acquired under said city. Respondent is informed and believes that, until lately, complainants and those under whom they claim had entirely abandoned said claim or title to the land appropriated as aforesaid to the city of Matamoras, and only revived the same when the land had been made valuable by the enterprise, capital, and labor of respondent.

Respondent further alleges that he purchased, located, and held said lands in good faith; they deny all fraud, combination, or illegal or improper practices or acts.

Respondent further alleges that the pretended claim of the complainants is stale and fraudulent, and intended to harass and defraud respondent, and retard and injure the growth of the town now being erected on the land in controversy.

Respondent denies that any waste in wood, timber, earth, or other material has been committed on said premises in controversy, or that any can be committed which is not readily capable of adequate compensation in money. Respondent further alleges that he is amply able and has sufficient property within the jurisdiction of the court to make good and satisfy any damages, rents, or mesne profits that complainants may be entitled to or may at any time recover judgment

for. Respondent further alleges that having purchased and settled said land in good faith, he is entitled to pay for all improvements by him and his agents placed upon said lands, and in case of eviction they pray for an account and judgment for the same.

As to interrogatory No. 1, in complainants' bill contained, respondent answers and says: It is not true that this respondent, and, so far as he is informed and believes, any of his associate parties defendants to this bill, obtained any grants to land direct from the ayuntamiento of Matamoras; but true it is that this respondent, acting with his associates, have purchased, procured, and obtained from other persons divers tracts of land, including the town site of the town of Brownsville, the authenticated grants and title papers to which this affiant, with the utmost diligence by him used, has not been able to preserve in proper form, as the official records, *as the official records*, wherein the same were archived, were sealed up and closed on the commencement of the late war between Mexico and United States, and have not since been opened, and for this reason this defendant is unable at this time to answer further and more fully this interrogatory, further than to assert and claim a title to portions of said tract of land under such grants or claims.

As to interrogatory No. 2, respondent answers and says, that this defendant has not procured certain nor any headright certificates, bounty warrants, land scrip, or other evidences of title to land issued under the authority of the republic or State of Texas, and have not located or caused to be located, surveyed or caused to be surveyed, the said evidences of title to land upon any portions of the tract in said bill of complaint described. But it is true that this defendant, with others, have purchased and procured from Daniel Snively, by regular transfer and conveyance, about one league of land, embracing the town of Brownsville, located and surveyed by the surveyor of Cameron county, in the year 184 , for David Snively under headrights issued by bounded and described as in said surveys, all of which will more fully appear by reference to a certified copy of said locations, field notes, and surveys, marked Exhibit No. 1, and made a part of this answer.

As to interrogatory No. 3, respondent answers and says, that true it is that he, as one of the defendants, with his associates, claim a right to take possession of, and to exercise all the rights and privileges of ownership in full, over the land herein described in said defendant's answer to interrogatories No. 1 and 2, and that he so claims under and by virtue of, as well as the headright certificates, locations, surveys and field notes as hereinbefore set forth in this defendant's answer to interrogatories No. 1 and 2 in said bill of complainants contained, as also by virtue of conveyances from parties holding titles from the ayuntamiento of the city of Matamoras and the State of Tamaulipas to certain ejidos or tracts of land, but which is out of this defendant's power more particularly to describe or fully set forth at this time, for the reason that he is unable to have access to the public archives of said city and State, where the aforesaid titles are kept, as heretofore stated.

As to interrogatory 4, respondent answers and says: This defendant denies all knowledge of any leases having been made or rents received or to be received for the site of Fort Brown from any person whatever; and for answer to the remaining portions of said interrogatory, refers to the defendant's answer to interrogatories No. 1, 2 and 3.

As to interrogatory No. 5, respondent answers and says, that he, in conjunction with his associates, have made use of the public offices of the State of Texas, and of the county, for all legal and rightful purposes connected with their interests, which in law they had a right to do, and none other.

And now, having fully answered, respondent prays to be hence dismissed with his reasonable costs.

STATE OF TEXAS,
County of Cameron.

Personally appeared before me, the undersigned authority, the respondent Samuel A. Belden, who, being duly sworn, says that the statements of the foregoing answer, as made of his own knowledge, are true, and those on information or belief he believes to be true. On this 28th day of May, 1849.

SAM'L A. BELDEN.

J. B. BIGELOW,

Chief Justice of the County of Cameron, State of Texas.

And afterwards, to wit, on the same day and year, came Samuel A. Belden, one of the defendants hereto, and filed his affidavit, which accompanies his answer, and is in the following words, that is to say:

Affidavit of Samuel A. Belden.

IN THE DISTRICT COURT OF THE UNITED STATES
for the District of Texas.

DON RAFAEL GARCIA CAVAZOS and others	} Bill in chancery.
<i>vs.</i>	
CHARLES STILLMAN and others.	

Before me, the undersigned authority, personally came and appeared Samuel A. Belden, one of the defendants to the said bill, (in the bill called Samuel Belden,) who, being first duly sworn, deposes and says that, desirous for further time to answer the said bill of complaint, and that the application for an injunction be postponed until the coming in of the answer, craves leave to offer the following as the reasons for which he relies upon the granting of the same, to wit:

This affiant says that he verily believes, and here asserts, that he, in connexion with Charles Stillman, likewise a defendant to the said bill of complaint, together with Jacob Mussina, of the city of New Orleans, in the State of Louisiana, are the rightful and legal owners of the land upon which the town of Brownville is situated; it being a part of the land as described in said complainants' bill for this among

other grounds, to wit, that the congress of the State of Tamaulipas (in the jurisdiction of which State the lands as set forth in said bill of complaint were then situated) in the exercise of a right reserved in complainants' pretended title, and with full powers to do so under the laws and constitution of the said State of Tamaulipas, as this affiant is advised and believes, pretended to set aside and appropriate certain lands, in the decree of said congress specified, for the use, benefit, and property of the city of Matamoras, which was done by an act of the congress of the said State, at Victoria, on the 5th day of October, A. D. 1828; that said appropriation was a valid transfer to the city of Matamoras of all the right, title, and interest which the original grantee or his heirs, legatees, or legal representatives had in and to the lands in controversy. That the same was a valid and binding transfer and appropriation, and legal, as this affiant is advised, and in all respects according to the laws of this State.

This affiant further says that he is informed and believes that the city of Matamoras, through its regular and legally constituted authorities, took possession of said land, and had the same set apart for city purposes, under and by virtue of said decree of the congress of the State of Tamaulipas; that said tract so set apart and appropriated, embraced that tract, or a large portion thereof, upon which the town of Brownsville is now situated, and in possession of and claimed by this affiant and his associates.

This affiant further says that, as he is informed and believes, after the city authorities of Matamoras had so taken possession of said land under the direction and transfer aforesaid, they proceeded, as by law they had a right to do, from time to time to sell, convey, and grant portions of said land to various persons, who thereupon entered upon and took possession of each his respective tract, and used and occupied the same. That this affiant further says that afterwards he, with his associates, as aforesaid, acquired by purchase the aforesaid land by them held, in good faith and for a valuable consideration, and now hold the same by virtue of regular transfers or deeds, in some cases from said grantees, and in others from their vendees.

This affiant further says that he is informed, and verily believes, that the said decree of the congress of the aforesaid State of Tamaulipas, together with all other the decrees and proceedings of the said congress authorizing the appropriation and transfer of the aforesaid land by the said authorities of the city of Matamoras, with also the acts, grants, or transfers whereby the said small tracts or portions of land were conveyed and transferred by the said authorities of the city of Matamoras to third parties, are of record among the archives of said city of Matamoras. That upon the commencement of the war between the United States and the republic of Mexico all of the archives of the said city were sealed up and sent to the city of Victoria, the capital of the State of Tamaulipas, for safe keeping, and that the same have not yet been restored and returned to the said city of Matamoras, so that access may be had to the same, and authenticated copies thereof be obtained by those entitled thereto.

This affiant says that he, many months ago, and before the insti-

tution of complainants' suit, with his aforesaid associates, made application to the proper officers of the said city of Victoria for authentic copies of the aforesaid decrees and proceedings of the said congress and of the said authorities of the city of Matamoras, as constituting one of the grounds of title by which this affiant and his associates hold; and although repeated and strenuous efforts have been by him and his associates made from that time until the present moment, yet all have been unavailing.

This affiant further states that the aforesaid parcels of land by him and his associates purchased as aforesaid, and now held in possession, have some or all of them, as he is informed and believes, and expects to prove, been held and enjoyed either by the said authorities of Matamoras, the grantees of said city, or their vendees, in open, notorious, peaceable, adverse possession to the claim of the said complainants for three, five, ten, and twenty years next before the exhibition of complainants' bill, and so far as this affiant is informed and believes, without any reclamation, disturbance, molestation, or question, either from said complainants or any other person; that, indeed, so far from asserting a claim to the aforesaid lands adverse to the right of the said city of Matamoras, Don Rafael Garcia Cavazos, one of the complainants in this bill, did, as this affiant is reliably informed and believes, and so charges the fact, take and receive a like grant from the authorities of said city of Matamoras, to one or more parcels of the aforesaid land, thereby recognizing the validity of the title of said city.

This affiant asserts that the pretended claim of the complainants is stale and fraudulent, and intended to harass and defraud this affiant and his associates, as he verily believes, and calculated greatly to retard and injure the growth of the town of Brownsville, now being erected on the land in controversy.

This affiant further says that he is informed and believes that until lately complainants, and those under whom they claim, had entirely abandoned said claim or title to the land appropriated to the city of Matamoras as aforesaid, and only revived the same when the land had been made valuable by the enterprise, capital and labor of this affiant and his associates, upon the said land expended.

This affiant states as another cause why he is unable at this time to answer said complainants' bill, that such has been the unprecedented mortality from the cholera in this region, running through the almost entire time from the commencement of this suit, causing the almost entire suspension of all business, to obtain the requisite information [could it have been had] to frame this answer would have subjected him to great trouble and serious loss.

This affiant denies that any waste in wood, timber, earth, or other material, has been committed on said premises in controversy, or that any can be committed which is not readily capable of adequate compensation in money. This affiant further alleges that he and his associates are amply able and have sufficient property within the jurisdiction of the court to make good and satisfy any damages, rents,

or mesne profits that complainants may be entitled to, or may at any time recover judgment for.

This affiant further states that it is his interest and desire to obtain an early and speedy action and decision of this controversy, whereby the title to the same being cleared from the cloud which is thus thrown upon it, the said property may appreciate to its full and intrinsic value.

That this affiant is informed, and has good cause to believe, that the aforesaid records and other evidences of title essential to his cause, and without which he could not safely go to trial, will be at an early day opened by the Mexican authorities for use and inspection.

That this affidavit is not made for delay nor to harass the complainants, but that justice may be done.

Affiant, therefore, craves further time to answer said bill, and that the application for an injunction be postponed until the coming in of affiant's answer, as the granting would not materially benefit complainants, inasmuch as the said property is increasing in value every day in proportion to the growth of the town of Brownsville; but the injunction, on the other hand, would probably retard the prosperity of the said town, and hinder the further increase in value of said land.

SAML. A. BELDEN.

Sworn to and subscribed before me this 28th day of May, A. D. 1849.

J. B. BIGELOW,

*Chief Justice of the County of Cameron,
State of Texas.*

And afterwards, to wit, on the thirtieth day of June of the same year, came John Treanor, and filed his affidavit herein, which said affidavit is in the words and figures following, to wit:

Affidavit of John Treanor.

DISTRICT COURT OF THE UNITED STATES, *District of Texas.*

In Chancery.

Between { RAFAEL GARCIA CAVAZOS and others
and
CHARLES STILLMAN and others.

Affidavit of John Treanor, agent and attorney in fact for Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, Doña Estafana Gozeascochea de Cortina, complainants in the above entitled cause, to be read in opposition to the motion made to dismiss the said cause as to the other parties complainant therein.

I, John Treanor, make oath and say that I am now, and have been before the institution of this cause, the agent and attorney in fact of Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, and Doña

Estafana Gozeascochea de Cortina, complainants therein ; that a short time before the institution of the same I procured from Don Manuel Prieto, also one of the complainants, the original testimonio of the grant to Don José Salvador de la Garza, mentioned in the bill of complaint, and, with the consent of all the parties interested therein, carried the same to the city of Austin, in the State of Texas for the purpose of having it duly registered in the archives of the general land office of the said State ; and that, after leaving Austin, I came to Galveston, with the design of employing counsel to commence such proceedings at law and in equity as might in their judgment be necessary to establish the title of all of the complainants to the land embraced within the said grant.

And I do further say that, on arriving at Galveston, I engaged and retained, on the part of those whom I then directly represented, and on the part of the other complainants, whose authorization and power of attorney [with the exception of that of Don Constantino Tarneva] I expected to be able to procure upon my return to Matamoras as their counsel, solicitors and attorneys at law, Ebenezer Allen and William G. Hale, whose names are signed to the said bill of complaint, and directed and empowered them to institute and continue, and carry to a conclusion, all such proceedings, whether at law or in equity, as they might judge proper or necessary, to establish the said title for the common benefit of all the parties interested.

And I do further say that, acting upon such my direction and authority, the said Allen and Hale instituted the present cause, and filed the bill of complaint herein on the part of all the parties thereto ; and that, since the institution of the said cause, the said parties whom I directly represent have approved in the fullest manner of the same, and of all my acts, and of the acts of the said Allen and Hale in the premises ; and that nothing could be more opposed to their express wishes, and prejudicial to their interests, and destructive of all their legal and equitable rights, as set forth in the said bill, than the dismissal thereof, as to any of the parties thereto.

And I do further depose and say that, at the time of the institution of the cause, I sincerely thought that I was acting for the interest of all the parties complainants thereto, and I was wholly ignorant that any of them had employed any other attorney for the purpose of establishing their title as aforesaid, and I conceived that I was fully entitled to act as I have herein acted.

And I do further say that the original testimonio of title, before referred to, has, indeed, been for some time in the possession of Doña Feliciano de Tigerina and Don Manuel Prieto, but that the proper custody thereof belongs to the representatives of Don Blas Maria de la Garza, who was the chief executor of the estate of the said Don Salvador de la Garza, so far as the tract of land referred to therein and in the said bill is concerned, and that Don Rafael Garcia Cavazos and Doña Maria Josefa Cavazos are now the legal representatives of the said Don Blas Maria de la Garza.

And I do further say that, in opposing the suit instituted in the disirict court of Cameron county for a portion of the said tract of

Order of court.

RAFAEL GARCIA CAVAZOS and others }
 vs. }
 CHARLES STILLMAN and others. }

On motion of Rice Garland, esquire, counsel of defendants, it is ordered, that the motion, heretofore heard, referring the motion to the master to take testimony to show upon what authority certain persons named in said motion were made parties complainant in this cause, is withdrawn from the master and the motion dismissed.

And afterwards, to wit, on the same day and year, the court here made an order in this cause which is of the words and figures following, to wit :

Order of court.

RAFAEL GARCIA CAVAZOS and others }
 vs. }
 CHARLES STILLMAN and others. }

On motion, it is ordered that the motion filed by Rice Garland, esq., counsel for defendants Fitzpatrick and Shannon, requiring complainants to file in court the originals of the pretended title papers or muniments of title under and by virtue of which they claim the land, be continued until Wednesday, the fourth of July instant.

And afterwards, to wit, on the same day and year, the court here made an order in this cause which is of the words and in the figures following, that is to say :

Order of court.

RAFAEL GARCIA CAVAZOS and others }
 vs. }
 CHARLES STILLMAN and others. }

On motion, it is ordered that this cause be continued until this day two weeks in consequence of the absence of Volney E. Howard, the counsel of Charles Stillman.

And afterwards, to wit, on the fifth day of July of the same year, the court here made an order in this cause which is in the words and figures following, that is to say :

Order of court.

RAFAEL GARCIA CAVAZOS *et al.* }
 vs. }
 CHARLES STILLMAN *et al.* }

On motion of counsel for defendants, Fitzpatrick and Shannon, it is ordered that they have time until Saturday next to plead, answer, or demur to complainants' bill.

And afterwards, to wit, on the same day and year, the court here made an order in this cause, which is in the words and figures following, that is to say :

Order of court.

RAFAEL GARCIA CAVAZOS *et als.* }
vs. }
 CHARLES STILLMAN and others. }

On this day the motion of Patrick C. Shannon and Richard F itzpatrick, filed on the twenty-eighth day of March, 1849, requiring the complainants to file the originals of the pretended title papers or muniments of title, came on to be heard ; after argument of counsel it is ordered that the motion be overruled.

And afterwards, to wit, on the seventh day of July of the same year, the complainants, by their solicitors, filed an amendment to their bill, which said amendment is in the words and figures following, that is to say :

Amended bill.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In chancery.

The amendment of DON RAFAEL GARCIA CAVAZOS, DOÑA MARIA JOSEFA CAVAZOS, his wife, and DOÑA ESTAFANA GOZEASCOCHEA DE CORTINA, complainants, to their amended bill of complaint heretofore filed, wherein DOÑA FELICIANA DE TIGERINA, DOÑA MARIA ANGELA, (or de los Angeles,) GARCIA SAFEN DE TARNEVA, DON RAMON SAFEN, and DON MANUEL PRIETO, were originally joined with them as complainants,

against

CHARLES STILLMAN, SAMUEL A. BELDEN, PATRICK C. SHANNON, RICHARD FITZPATRICK, and W. W. CHAPMAN, defendants.

These complainants, with leave of the court, as contained in its order of the thirteenth day of June, A. D. 1849, amend their said amended bill of complaint, by striking out all of the introductory part from the word "widow," on the 10th line of the first page, to the word "Prieto," in the sixteenth line of the same page, and by inserting after the word "Texas" on the twenty-fifth line of the said page the words following, that is to say : "And also against Doña Feliciano de Tigerina, Doña Maria Angela, or de los Angeles, Garcia Safen de Tarneva, Don Ramon Safen, and Don Manuel Prieto, who are each and all citizens of the said State of Texas and residing therein.

And also by striking out in the title of the former amendment to the original bill of complaint all the names last above mentioned ap-

pearing therein as complainants, and by inserting them in the said title as defendants.

And also by striking out any references contained in the said amended bill, to the above named persons as complainants.

And also by inserting after the word "Chapman," on the fifth line of the eleventh page, and in the prayer of the said original bill, the words following, that is to say :

And also to the said Doña Feliciana de Tigerina, Doña Maria Angela, (or de los Angeles,) Garcia Safen de Tarneva, Don Ramon Safen, and Don Manuel Prieto.

And these complainants, by further leave of the said court, amend their said amended bill of complaint, by inserting therein after the word "Texas," on the nineteenth line of the first page, and also after the words "Charles Stillman," on the fourth line of the eleventh page, and in the prayer of the said bill, the words following, that is to say : "Jacob Mussina, who is also a citizen of the said State of Texas, and residing therein."

And these complainants further pray, as in and by their said amended bill they have already prayed.

EBEN. ALLEN & WM. G. HALE,

Of counsel for complainants.

And on the same day and year the court here made an order in this cause, which is in the words and figures following, that is to say :

Order of court.

RAFAEL GARCIA CAVAZOS *et al.* }

vs.

CHARLES STILLMAN *et al.* }

On motion, and by leave of the court the complainants, by their counsel, filed an amendment to their amended bill of complaint.

And afterwards, to wit, on the eighth day of July of the same year, the defendants, Shannon and Fitzpatrick, filed their motion herein, which said motion is in the words and figures following, that is to say :

Motion.

RAFAEL GARCIA CAVAZOS and others, }

vs.

CHARLES STILLMAN and others. }

The defendants, Shannon and Fitzpatrick, by their counsel, move the court for time to answer until the first Monday in November next, for the reasons stated in the affidavit of Rice Garland.

RICE GARLAND,

Solicitor for defendant.

JULY 8, 1849.

And afterwards, to wit, on the ninth day of July of the same year, Jacob Mussina filed his answer herein, which is of the words and in the terms following, that is to say :

Answer of Jacob Mussina.

In the United States district court for the district of Texas, sitting in equity.

The separate answer of Jacob Mussina, one of the defendants therein named, to the bill of complaint of Don Rafael Garcia Cavazos, Do a Maria Josefa Cavazos, his wife, and Doña Estafana Goseascochea de Cortina, widow, complainants, and citizens of the State of Tamaulipas, one of the States of Mexico, exhibited against Charles Stillman, Samuel A. Belden, and W. W. Chapman and others, citizens of the State of Texas, and Jacob Mussina, a citizen of the State of Louisiana, defendants.

The said respondent, reserving to himself all objections to the numerous errors, imperfections, and informalities in the said bill of complaint contained, for answer to so much thereof as he is advised it is material for him to answer unto, says :

That first answering, according to the best of his knowledge, remembrance, information, and belief, the several and respective interrogatories in complainants' bill set forth, he says, in answer to

Interrogatory 1st. He has not procured from the ayuntamiento of the city of Matamoras, nor does he believe that any of the other defendants have done so, any grant, claim, or other title to land within the boundary of the tract in complainants' bill described. He admits, however, that he, in conjunction with two of the other defendants named in complainants' bill, to wit, Charles Stillman and Samuel A. Belden, have purchased and procured from divers other persons sundry grants, conveyances, and other evidences of title issued by the ayuntamiento of the city of Matamoras to said persons, or to those under whom they held and claimed title, certain portions and parcels of said land, described as being and situate within the grant or tract in the bill of complaint set forth and described, the dates of said grants, the names of the persons to whom made, and the quantity of land and boundaries contained in each respectively. This respondent is unable at this time to give more in detail, for the reasons that he has not the papers and documents in his possession to enable him to do so ; he expects soon to have the means in his possession of fully supplying these omissions, and he craves leave to amend this his answer in these particulars at the earliest practicable time in his power. This respondent further admits and states that he, in conjunction with the said Stillman and Belden, do hold, and claim to own on the east bank of the Rio Grande river, nearly opposite the city of Matamoras, the tract of land on which the town of Brownsville is laid out and situated, under and by virtue of the said grants above mentioned, issued by the ayuntamiento of Matamoras to the persons who have conveyed and sold their right, title, and interest to and in the same, to the respondent and his co-purchasers.

To interrogatory second the respondent answers, That he has not procured, or caused to be procured, purchased, surveyed, or located, on any of said land in the bill of complainants described, any headright certificates, bounty warrants, or other evidences of title, issued or granted by the republic or State of Texas, to any person whatever, nor does he lay claim to any of such land, by virtue of any such purchase, survey, or location; that he and his co-purchasers, the said Stillman and Belden, have purchased from other persons their right, title, and interest to certain surveys and locations made by virtue of some such headright certificates, or other evidences of title, issued by the republic and State of Texas, to any person whatever; nor does he lay claim to any of such land, by virtue of any such purchase, survey, or location; that he and his co-purchasers, the said Stillman and Belden, have purchased from other persons their right, title, and interest to certain surveys and locations, made by virtue of some such headright certificates, or other evidences of title, issued by the said republic and State of Texas, such surveys and locations including about one league of land, on the east side of the Rio Grande, nearly opposite to the city of Matamoras, and covering and embracing as a part thereof the town site of Brownsville. The dates of these certificates and evidences of title, the persons to whom made and given, the surveys thereon, and the date of purchase and transfer, this respondent cannot particularly set forth, for the reason that he has not the necessary papers and documents for that purpose in his possession. As soon as he can procure them, he craves leave to amend this his answer, and to set forth and describe them freely in such amendments.

This respondent and his said co-purchasers claim to hold and own all said land covered in and by said surveys and locations, by virtue of the same, in addition to the title derived from the grants of the ayuntamiento of Matamoras, referred to in his answer to the first interrogatory.

To interrogatory third this respondent answers, That it is true that he and his associates above named, hold, claim, and own the said land mentioned and described in his answer to the two foregoing interrogatories of complainants, under and by virtue of the said grants from the ayuntamiento of Matamoras, commonly called egidos, described in his answer to the first interrogatory, and the headright certificates and other evidences of title, described in his answer to the second interrogatory. And further answering said interrogatory third, and showing the title under which he claims said land, he says, The said ayuntamiento of Matamoras, or the city of Matamoras, has been, since the year 1826, in actual adverse possession of so much of said land as is included within the egidos and grants above mentioned, either by its officers, agents or surveyors, or the same has been in the actual occupancy and possession of the respective grantees of said ayuntamiento, from whom this respondent and his associates purchased, and all of whose right and title they now have, hold, and own, to all of said parcels and lots of land. That the complainants, and those under whom they claim title, are not now, and

have not been since the year 1826 aforesaid, in the possession, occupancy, and enjoyment of any of said land, as this respondent has been informed and verily believes, except of one labor, as tenants or grantees of said ayuntamiento of Matamoras, lying outside of the limits of Brownsville.

To interrogatory fourth this respondent answers, That neither he nor his associates now pays or receives, or has paid or received, any rent for Fort Brown, nor is there any agreement or understanding between him or any other person, that such rent is to be paid or received therefor. As to the residue of this interrogatory, this respondent answers in the affirmative, referring to his answer to the foregoing interrogatories for full and complete explanations thereof.

To interrogatory fifth this respondent answers, That he has made such use of the public offices of the State as the law allowed, to record his titles and evidences thereof, and no other use, as will fully appear from a reference to said offices and records, to which complainants have alluded in their said bill.

This respondent, further answering the bill of complaint, that he and his associates, Charles Stillman and Samuel Belden, are now and have been since ——— last past, in possession of, and claim to hold, own, and occupy a tract of land on the east side of the Rio Grande River, nearly opposite the city of Matamoras, including the town site of the town of Brownsville, and containing about one league of land: This respondent refers to his answers to the several interrogatories in complainants' bill, for the nature, origin, and extent of his title to said land, which said title is fortified by the fact that the city of Matamoras, or the ayuntamiento of the same, has been by themselves, officers and grantees, in perfect and quiet adverse possession of nearly all said land, and especially that portion of the land on which the town of Brownsville is situated, since the year 1826, in which year the same was, by the proper authorities of the State of Tamaulipas, granted and confirmed to the said city of Matamoras, in due form, and according to law; by virtue of which grant and confirmation the title and all right, both of property and possession, was duly and legally vested in said city of Matamoras, and the same was thereby taken away from complainants, and those under whom they set up title, as well as all who claim under the same title, and became from thenceforth and forever altogether barred and diverted from them. That after the said tract of land was so taken away, barred, and diverted from them, the said complainants, and those under whom they set up title, ceased to hold, occupy, or possess any part of the same, except one labor, held and possessed by one Rafael Garcia Cavazos, as the tenant or grantee of said ayuntamiento of Matamoras, outside of the limits of Brownsville, and in nowise as of his own right, or the right of any person or claimant, except said ayuntamiento, as this respondent is informed and believes. That said city of Matamoras, or the ayuntamiento thereof, being so possessed of said land, from the year 1826 up to the late treaty of peace, entered into and concluded on the ——— between the two republics of the United States and Mexico, did, at various times, make to

various persons, in conformity to law, grants and disposals of various portions of said land, and said persons entered into the same, made improvements thereon, and complied in all particulars with the requirements of the laws of Tamaulipas and Mexico in this behalf. This respondent and his associates have purchased, for a valuable consideration, the right, title, and interest of these said persons, and claim to hold and own said land in pursuance thereof, as is explained in the answer to the respective interrogatories to which he refers. The rights thus arising and accruing to the grantees of the said ayuntamiento and their assignees or vendees, this respondent avers and claims to be valid, legal, and indestructible, by any authority whatever, and prays judgment of the court how far the same can be assailed or invalidated by these complainants, or others.

This respondent, further answering, says, that if it shall seem to the court that in consequence of the revolution of Texas, in 1836, or of the late war between Mexico and the United States, and the treaty of peace concluding the same, or of any other cause, law, or reason, that the right of the city of Matamoras, or of the State of Tamaulipas, to hold and occupy land on the east bank of the Rio Grande, ceased and determined, then that as much of said egidos as were held and owned by said city or State on said east bank, not granted to and legally vested in some third person or persons, authorized to own and hold the same, was and became public land, vacant and unappropriated, and belonging to the State or republic of Texas, and subject to sale or location under the laws of said State, and that the locations and surveys mentioned and described in the answers of this respondent to the interrogatories of complainants in this bill, constitute a valid and legal appropriation of said land, covered by the same, and vest a good title in the holders of the same.

And this respondent further answers and submits to the court, that the said treaty of peace affords no protection to the rights of the said city of Metamoras, or State of Tamaulipas, to real estate on the east bank of the Rio Grande, and that upon the conclusion of said treaty, if not before, all the land owned or claimed by said city or State was relinquished and yielded up to the State of Texas and the United States, and ceased to be further under and subject to the rights, jurisdiction, and ownership of the same as fully as if it had never been subject thereto; and all acts and attempts on their part since the ratification of said treaty, to sell, release, or interfere with the same, are totally illegal, null, and void, and in fraud of those whose rights are vested in the whole, or portions thereof, according to law. As to the allegations in said bill that irreparable injury will be done to the complainants unless a writ of injunction be issued in this case, this respondent further answering says, that he denies, altogether, the truth of said allegation, and avers that no damage will be done to the complainants; but if it should be, it can be readily compensated in money, and that he and his associates are abundantly able and ready to pay the same, and make good whatever losses or damage the said complainants do or may suffer in consequence of the

acts of this defendant, or of those who may claim by, under, or through him, as the court may hereafter adjudge and decree.

He denies all allegations of fraud, combination, &c., and insists upon strict proof of all such allegations in said bill contained. He knows nothing of his own knowledge of the heirship of complainants, or of those described in said bill as co-heirs, or tenants in common with complainants, or of their right to any property described in said bill, by descent, purchase, or otherwise, and requires proof of the same.

And this respondent further answering says, he knows nothing of his own knowledge of the original or subsisting validity of the grant made by the crown of Spain, on the 18th of July, in the year of our Lord 1781, to Don José Salvador de la Garza, as set out in the bill of complainants, and requires proof of the same.

This respondent further answering says, that at the time he and his said associates purchased the title, as above described, to the land on which the town of Brownsville was subsequently laid out and located, that the said purchase, which is more fully described in his answers to the interrogatories to the bill of complainants, was made in good faith, and under a thorough conviction that it vested in them a good legal title to said land, and that the purchases, improvements, and expenditures made in and about the town of Brownsville were so made by this respondent and his said associates, under such conviction that they had a perfect right so to do, and that the legal title to said land belonged to them by virtue of said purchases by them made. In case the court should think otherwise, this respondent claims and prays the benefit to which he is entitled under the law, for improvements made and money expended, under the circumstances above mentioned.

This respondent further answering says, that the bill of complainants does not contain such ground and cause of action as are properly and necessarily cognizable and relievable in a court of equity; but that in fact the same, as he is informed and believes, might be fully, completely, and adequately relieved at law, and is especially within the cognizance and jurisdiction of this court, exercising and administering its powers and authority as a court of law, and of this he prays the judgment of the court.

And this respondent further answers and says, that he specially pleads to the bill of complainants the statute of limitations, and all and singular the facts set forth and alleged in his foregoing answer to said bill, and will insist upon each and all of said facts, and the conclusions of law and equity deducible therefrom in his defence. And he prays to be herein dismissed with his costs, in this behalf most wrongfully sustained, &c.; and he will ever pray, &c.

JOHNSON & SWETT,

Solicitors for defendant.

THE DISTRICT OF TEXAS, ss.

Simon Mussina, being duly sworn according to law, says, that he is the agent and attorney in fact of Jacob Mussina, one of the defendants

to the bill referred to in the foregoing answer of said Jacob Mussina to said bill of complaint, and that as such agent and attorney in fact he negotiated and arranged all the purchases and transactions referred to and set out on behalf of said Jacob Mussina in the foregoing answer, and that he is well acquainted with all said purchases, transactions, and facts set forth in said answer, and that all the facts and statements set out therein, as of the knowledge of the said Jacob Mussina, this deponent knows to be true, and those set out upon the information of others he believes to be true, in substance and in fact.

He further deposes and says, that the said Mussina, Charles Stillman, and Samuel A. Belden are the joint owners of the town site of the town of Brownsville, under the title and claim set out and referred to in the foregoing answer; that they have sold several portions thereof to others, and that they and their said vendors are now, and have been for a year or more, in the actual, open, and adverse possession of said town site, erecting buildings and residing thereon, and those under whom they claim as vendors have been in most instances in actual adverse possession of the said land for many years, and some of them for a period of upwards of twenty years; that he knows the said Stillman, Belden, and Mussina are men of very considerable property independent of this property, and that he believes they are amply able to pay all costs and damages which the complainants might recover from them on account of this suit or the property therein claimed.

SIMON MUSSINA.

Sworn to and subscribed before me, this 9th day of July, A. D. 1849.

JOHN S. JONES,
Commissioner U. S. D. C., D. T.

And afterwards, to wit, on the same day and year, came Jacob Mussina, by his counsel, and moved the court in the words and figures following, that is to say:

Motion.

DON RAFAEL GARCIA CAVAZOS and others, complainants,
vs.

CHARLES STILLMAN and others, defendants.

In equity.

In the above entitled cause Jacob Mussina, one of said defendants, moves the court that said complainants be ruled and ordered by the court to give further security for costs in said cause, and said defendant, Mussina, here suggests to the court that the costs caused and to be caused by the suit of complainants herein are and will be very great, and that the security heretofore given is wholly inadequate and insufficient.

JOHNSON & SWETT,
Solicitors for Defendant, Mussina.

And the said defendant in the above entitled cause further moves the court to order the said complainants to file in court true and correct translations, in the English language, of each and every paper and document in the Spanish language which complainants may file or seek to file in said cause, either by way of exhibit, evidence, or voucher; and the defendant moves the court to order that all such translations be filed at the same time said papers and documents are filed, and that all papers now filed herein, being in the Spanish language, be translated correctly, and be subject to this order herein prayed for.

JOHNSON & SWETT,
Solicitors for Defendants.

And afterwards, to wit, on the 10th day of July of the same year, the affidavit of Rice Garland, esq., was filed herein, which said affidavit is in the words and figures following, to wit:

Affidavit of Rice Garland.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In chancery.

At Galveston, in the district of Texas, on this 10th day of the month of July, A. D. 1849, personally appeared before the undersigned authority Rice Garland, who, being sworn according to law, declares and says that he is the solicitor in the above mentioned case for the defendants, Patrick C. Shannon and Richard Fitzpatrick, and attorney in fact for the first named. This affiant says the said defendants cannot truly and correctly answer to the plaintiffs' bill of complaint in such manner as they are required to do, and at the same time protect their own interests, as by law they are authorized, because, he says, that the subpoenas directing the appearance of these defendants were not executed until on or about the , A. D. 1849; that no copies of the bill were served with the subpoenas, and this affiant, on behalf of said Shannon and Fitzpatrick, without delay wrote to a gentleman of the bar at Galveston, requiring him to procure a copy of the bill and forward the same. In consequence of the difficulty of communication between the county of Cameron and the city of Galveston, the application for a copy of the bill was retarded so that a copy did not issue until the 19th of February, A. D. 1849, and said copy did not reach this affiant until about one month afterwards. A short time before this affiant received a copy of the bill of complaint for his clients he was shown a copy that had been procured for Mr. Samuel A. Belden, one of the

defendants, and not until then did affiant or his clients know the precise character of the suit against them, or anything as to the allegations in the bill. About the 20th of the month of February, 1849, this affiant was preparing to set out for Galveston to attend to this case in behalf of his clients, when the cholera broke out in Brownsville, in Cameron county, and soon after in Matamoras, Mexico; Colonel Fitzpatrick was attacked with great violence, and only recovered his health after a long time and much care, which rendered him incapable of attending to business for nearly two months. When a copy of the bill of complaint was first seen by this affiant, and as he believes, by his client P. C. Shannon, the cholera was then raging in Brownsville and Matamoras, and their vicinities, and continued for a considerable time afterwards. This affiant and his client, P. C. Shannon, had families and friends whose situations required constant attention, and business of every kind was almost entirely suspended. As soon as the state of the country permitted, this affiant set about preparing the necessary defence for his clients, and the first object was if possible, to ascertain under what species of title, and in what form it was that the plaintiffs claimed. No trace of their title could be found in any of the public records, and the plaintiffs studiously concealed and now conceal whatever proofs of title they may possess, so that the defendants Shannon and Fitzpatrick cannot see them, and said plaintiffs still keep the documentary evidence in their possession; and this affiant, nor his clients, as he believes, has ever seen the said title papers, although this affiant, and he believes his clients also, have used all the diligence in their power to procure a sight of said title papers but without effect. This affiant has recently obtained some information which induces him to believe that in some short time after he shall return to the Rio Grande he will be able to obtain accurate information in relation to the pretended title of plaintiffs, and he believes when said pretended title comes to be known, it will be found to contain various conditions, one of which is to this purport: That if at any period of time all or any part of the lands included in it shall be needed to erect or establish on them any fortifications, towns or places, then the said José Salvador de la Garza shall give up so much land as may be wanting for such purpose, leaving the same free and unoccupied for the said purposes, upon the value of said lands at the time of giving them up being paid or satisfied.

This affiant further declares that he has been informed and verily believes that about the year 1826, measures were taken by the competent authorities in the State of Tamaulipas, for the purpose of having a considerable portion of the land claimed by plaintiffs appropriated to the erection and use of the city of Matamoras, in said State of Tamaulipas, republic of Mexico, and the then pretended proprietors of the aforesaid tract of land were declared divested of all title to that portion of said land or a very great portion of it, which is occupied by the proprietors of the towns of Brownsville and Freeport, and the title to the same became vested in the municipal authorities of the city of Matamoras, by whom the lands on which the towns of Brownsville and Freeport now are, was granted by various titles to

different persons, and the right to the same since vested in the present proprietors ; particularly that portion of it on which the town of Freeport stands, in the aforesaid Patrick C. Shannon, by virtue of a sale to him made by — Cavazos, to whom the municipal authorities of the city of Matamoras granted or conveyed said land.

This affiant declares that he, and as he verily believes, the aforesaid Patrick C. Shannon, have used all the diligence in the power of each, to procure a copy and sight of the aforesaid proceedings, by — of it. The case is one involving a large amount of property, the facts are somewhat intricate, and the documentary evidence has to be procured in a foreign country, and not always with facility, as it is necessary to have a judicial order to authorize the keeper of the public archives to give a copy of any document in his possession.

R. GARLAND.

Subscribed and sworn to on the 10th July, 1849.

And afterwards, to wit, on the twenty-fourth day of July of the same year, by agreement of parties, the court here made an order in this cause in the words following, that is to say :

Order by consent.

DON RAFAEL GARCIA CAVAZOS *et al.* }

vs.

CHARLES STILLMAN *et al.* }

It is agreed that Richard Fitzpatrick and Patrick C. Shannon, two of the defendants in the above entitled cause, have until the Saturday next preceding the rule day in November next to file their answers therein ; and that this extension of time shall not operate in any way to delay the progress or hearing of this cause, and that the plaintiffs may proceed to take testimony in this cause with like effect as to those defendants as if their answers were now on file, upon like notice being given to them as to the other defendants in open court, this 23d day of July, A. D. 1849.

ALLEN & HALE,

Solicitors for complainants.

R. GARLAND,

Solicitor for Shannon and Fitzpatrick.

And afterwards, to wit, upon the same day and year, the court here made an order in this cause, which is in the words and figures following, that is to say :

Order of Court.

RAFAEL GARCIA CAVAZOS *et al.* }

vs.

CHARLES STILLMAN *et al.* }

And now, in pursuance of an agreement bearing date the 23d day of July, A. D. 1849, entered into between the complainants by their solicitors, Allen and Hale ; on the part of Richard Fitzpatrick and

Patrick C. Shannon, two of the defendants, acting by R. Garland, their solicitor, on the other part, it is ordered by consent of the parties, manifested by their said agreement, that the said Fitzpatrick and Shannon have a further extension of time, viz., until the Saturday next preceding the rule day in November next, wherein to file their respective answers; and that this extension of time shall not operate in any way to delay the which the legal authorities in the State of Tamaulipas, Mexico, declared the aforesaid land appropriated to the use and benefit of the city of Matamoras, and divested the representatives of the original grantee of all right thereto. That when application has been made to the proper keeper of these and other archives in Matamoras, the reply has been that the documents, of which the copies are wanted, were in the spring of the year 1846, upon the approach of the American army upon Matamoras, removed to the city of Victoria, the capital of the State of Tamaulipas, a distance of about one hundred Mexican leagues, and that the same had not been returned, but expected to be.

This affiant says that he left Cameron county in the early part of the month of June, and was on the 5th of that month in the city of Matamoras, and then no copy of the aforesaid papers had been procured; and this affiant has reason to believe none has been procured, and will not be, until the return of affiant to the Rio Grande; and it may be some of the parties interested will have to proceed to Victoria, in the State of Tamaulipas, to obtain the necessary copies of documents to defend this suit.

This affiant further declares that he has reason to believe that the legal authorities of the State of Tamaulipas, Mexico, did, by some proceedings, declare or consider as amended the pretended title under which the plaintiffs claim, or that some law or decree was made affecting that and other claims of a similar character, which this affiant has not been able to procure; nor has the aforesaid Shannon and Fitzpatrick, or either of them, such information or copies as this affiant believes. But certain it is that the competent authorities of the State of Tamaulipas, in the republic of Mexico, have so far regarded the pretended grant to José Salvador de la Garza as of no validity or effect, that three large grants of land have been made to three different persons within the limits or boundaries specified in the bill of complainants, to wit, one title or concession to Don Rafael Garcia in the year 1829, for between seven and eight sitios or leagues of land, generally called the Santa Isabella grant. Also another title for an unknown but large quantity to Don Ignacio Treviño, commonly called the Potrero of San Martin, dated about the year last aforesaid. Also another title for an unknown but large quantity of land granted to Don Manuel de la Garza about the aforesaid date, and known as the Buena Vista grant.

This affiant declares that, in his opinion, it is necessary that these defendants should have time to answer; and in consequence of the difficulty of communication between the county of Cameron and Galveston, he thinks the time asked is not too long. He further says that it is not the object of the defendants to procrastinate or delay

of witnesses, residing or being within the States of Tamaulipas and Coahuila, two of the United Mexican States, in the manner and form, and in the terms and conditions contained and set forth in the order of this court, made in the said last mentioned cause on the second day of July, 1849.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Compl'ts.

JULY 25, 1849.

And afterwards, to wit, on the same day and year, the complainants herein filed their motion, which is in the following words and figures :

Motion.

DISTRICT COURT OF THE UNITED STATES, *District of Texas.*

Between { RAFAEL GARCIA CAVAZOS and others
and
CHARLES STILLMAN and others.

In Chancery.

Ebenezer Allen and William G. Hale, of counsel for the complainants in the above entitled cause, move this honorable court for leave to withdraw from the files of the court the papers in Spanish annexed to the affidavit of John Treanor, for the purpose of obtaining proof of the signatures thereto.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Compl'ts.

JULY 28, 1849.

And afterwards, to wit, on the thirtieth day of July of the same year, the court here made an order in this cause in the words following, that is to say :

Order of court.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others }

On motion of counsel for Charles Stillman, one of the defendants in this cause, it is ordered that he have leave to adopt the answer of Samuel A. Belden, one of the defendants, filed on the twenty-ninth day of June, A. D. 1849, in all respects as his own ; and that he also have leave to amend the said answer of the said Belden, so as to make it the joint and several answer of the said Belden and Stillman, with the same force, effect, and operation, as if it had been the said joint and several answer of the said parties at the time it was filed in this cause ; the complainants havin waived the necessity of the oath of the said Stillman to the truth of the said answer, and assent-

ing to this order in all particulars. And thereupon the counsel for the said Stillman, in accordance with this order, adopt the answer of the said Belden as above stated.

And afterwards, to wit, on the first day of August of the same year, the court here made an order in this cause, which is of the words and in the tenor following, that is to say :

Order of court.

RAFAEL GARCIA CAVAZOS and others

vs.

CHARLES STILLMAN and others.

Upon motion of complainants, by counsel, it is ordered that they have leave to amend.

And afterwards, to wit, on the second day of August of the same year, the complainant filed a notice to defendants, which is in the words and figures following, that is to say :

Notice to Defendants.

DISTRICT COURT OF THE UNITED STATES, *District of Texas.*

Between { RAFAEL GARCIA CAVAZOS and others, complainants,
and
CHARLES STILLMAN and others, defendants.

In Chancery.

To Patrick C. Shannon and Richard Fitzpatrick, or to Rice Garland, esq., their solicitor and counsel.

Gentlemen: Please to take notice, that within three days after the next rule day, to wit, the first Monday in August, 1849, we shall file interrogatories in the office of the clerk of the district court of the United States for the district of Texas, to be propounded to witnesses residing in the State of Tamaulipas, and that you can, if you desire, file cross-interrogatories thereto under the orders of the said court within the time limited, or appoint some other person to do the same for you.

Very respectfully, your obedient servants,

EBN. ALLEN & WM. G. HALE,

Solicitors for Complainants.

AUGUST 1, 1849.

UNITED STATES OF AMERICA,

District of Texas, ss.

I, William G. Hale, one of the solicitors of the complainants in the above entitled cause, make oath and say, that I served Rice Garland, the solicitor and counsel of the defendants Fitzpatrick and Shannon,

with a true copy of the above notice on the first day of August, A. D. 1849.

WILLIAM G. HALE.

Sworn to and subscribed before me, on this 2d day of August, A. D. 1849.

A. M. HUGHES, *Commissioner*.

And afterwards, to wit, on the same day and year, the complainants amended their bill in the words and figures following, to wit :

Amendment to bill.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

The amendment of DON RAFAEL GARCIA CAVAZOS, DOÑA MARIA JOSEPHA CAVAZOS, his wife, and DOÑA ESTAFANA GOZEASCOCHEA DE CORTINA, complainants, to their bill of complaint heretofore filed and amended,

against

CHARLES STILLMAN, SAMUEL A. BELDEN, JACOB MUSSINA, PATRICK C. SHANNON, RICHARD FITZPATRICK, and DON MANUEL PRIETO, DOÑA MARIA ANGELA, or de los Angeles, GARCIA SAFEN DE TARNEVA, DON RAMON SAFEN, and DOÑA FELICIANA DE TIGERINA, defendants.

These complainants, by leave of the court, as appears by the order in this cause of the first day of August, A. D. 1849, amend their said amended bill of complaint, by way of replication, to such of the matters, causes, and things contained in the joint and several answers of the said Charles Stillman and Samuel A. Belden, the separate answer of the said Simon Mussina, and the like part of the answers of the other defendants when the same are filed, as they are advised, as they are material or necessary for them thus to reply to, and here insert in their said amended bill after the words "treaty aforesaid," on the first line of the eighth page thereof, the words following, that is to say :

"And at other times the said defendants pretend that by means of, or in consequence of, some law of the State of Tamualipas, or of the United Mexican States, or some edict, decree, or law of the king of Spain, or some order of his officers, or the officers of said State or States, or finally, by some reservation contained in the said original grant, the portion of the tract of land hereinbefore described, whereon the town site of Brownsville has been pretended to have been laid out by some of the defendants, and other portions of the same tract to which the said defendants and others claim title, have been taken, appropriated, and set aside, out of the said tract, for the use of the said town or city of Matamoras, in the State of Tamaulipas, and that the same have thereby become the property of the said town or city, and have ceased to be the property of the heirs of the said Don José Salvador de la Garza, and those claiming under them, the direct contrary whereof these complainants allege to be true, and insist upon

strict proof thereof ; and they further charge that if the facts are so, as by the said defendants pretended, or any part of said facts, which these complainants in nowise admit, then it is also true that neither said town nor city of Matamoras, nor the confederation thereof, nor any person for it or them have ever paid to the owners of said tract of land, the heirs of Don José Salvador de la Garza, and those claiming under them there living, any such compensation as by the laws of Spain and the Indies the royal edicts, decrees, and cédulas, the ordinances of the royal audiencia and viceroys of New Spain, the constitution and decrees of the United Mexican States, the constitution and laws of the State of Tamaulipas, and the nature of said grant, they were required and bound to pay in order to make such appropriation valid, nor have they paid or stipulated to pay any sufficient consideration whatever.

“And at other times the said defendants further pretend that by the extension of the sovereignty and jurisdiction of the republic or State of Texas, or of the United States of America over that portion of the present State of Texas wherein the said tract of land is situate, that portion thereof which is pretended as aforesaid to have been appropriated by the town or city of Matamoras, became a part of the public domain of the republic or State of Texas, or of the United States of America, and liable to be located and taken up by head-right certificates and other claims to land issued under the republic or State of Texas, the direct contrary whereof these complainants charge to be true ; and further charge, that if the appropriation aforesaid by the town or city of Matamoras was ever legally made, which these complainants in nowise admit, then the said tract of land, so appropriated, upon the separation of the same from the territory of the State of Tamaulipas and the United Mexican States, reverted to the original owners of the said tract of land, the heirs of the said Don José Salvador de la Garza, then living, and those to whom his title have passed, and became and now remains the property of the original complainants to the bill of complaint in this cause, and did not become any part of the vacant public domain of the republic or State of Texas ; and further charge, that the said defendants now claim to derive title from the said city of Matamoras under the appropriation aforesaid.

“And at other times the said defendants further pretend, that the original grant, issued to Don José Salvador de la Garza is vague, inefficient, and insufficient, and is not in the form required by law ; the direct contrary whereof these complainants charge to be true, and pray leave to produce and refer to a copy of the said original grant, upon the hearing of this cause, and then to make the same, or a copy thereof, a part of this bill.”

And the said complainants, making these amendments to their said amended bill, waive any further answer to the same, and now pray as in and by their said original and amended bill they have already prayed.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Complainants.

And afterwards, to wit, on the fourth day of August of the same year, the court here made an order in this cause, in the following words and figures, that is to say :

Order of court.

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

The order of court of the 2d of July, 1849, to authorize the parties to take out letters rogatory, is not to be construed to deprive either party of the right to take the depositions of witnesses on commissions as in other cases, if the government of the said States of Tamaulipas or Coahuila, or either of them, shall permit it to be done.

And afterwards, to wit, on the sixth day of August of the same year, the complainants herein filed their replication in the following words, that is to say :

Replication.

DISTRICT COURT OF THE UNITED STATES, }
District of Texas. }

In Chancery.

The joint and several replication of Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, complainants, to the joint and several answer of Samuel A. Belden and Charles Stillman, two of the defendants to the amended bill of complaint of the said complainants.

These repliants, saving and reserving to themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication, thereunto say: That they will aver, maintain, and prove their said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by these repliants. Without this, that any other matter, cause, or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and effectually replied unto, confessed and avoided, traversed and denied, is true; all of which matters and things these repliants are ready and willing to own, maintain, and prove, whenever this honorable court shall direct, and humbly pray as in and by their said amended bill they have already prayed.

EBN. ALLEN & WM. G. HALE,
Solicitors for repliants.

GALVESTON, *August* 6, 1849.

And afterwards, to wit, on the same day and year came the complainants herein, and filed their replication, which is in the words following, that is to say :

Replication.

DISTRICT COURT OF THE UNITED STATES, }
District of Texas. }

In Chancery.

The joint and several replication of Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, complainants, to the separate answer of Jacob Mussina, one of the defendants to the amended bill of complaint of the said complainants.

These repliants, saving and reserving to themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication, thereunto say: That they will aver, maintain, and prove their said bill to be certain, true, and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient in the law to be replied unto by these repliants. Without this that any other matter, cause, or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, and not herein and hereby well and effectually replied unto, confessed and avoided, traversed or denied, is true. All of which matters and things these repliants are, and will be ready to aver, maintain, and prove, whenever this honorable court shall direct; and humbly pray, as in and by their said amended bill they have already prayed.

EBN. ALLEN & WM. G. HALE,
Solicitors for repliants.

GALVESTON, *August 6, 1849.*

And afterwards, to wit, on the eighth day of August of the same year, the court here made an order in this cause, which is in the words and figures following, that is to say:

Order of court.

RAFAEL GARCIA CAVAZOS and others, }
vs. }
 CHARLES STILLMAN and others. }

This day the motion of the counsel for the complainants, on the twenty-seventh day of July, 1849, in the words and figures following, to wit:

Between

RAFAEL GARCIA CAVAZOS *et al.*, }
 and }
 CHARLES STILLMAN and others. }

Ebenezer Allen and William G. Hale, of counsel for the complainants in the above entitled cause, suggesting the necessity of the case, and referring to the affidavit of John Treanor, filed in this court, wherein the said complainants are plaintiffs and Simon Mussina is

defendant, moves this honorable court to order that either party may have leave to take out letters rogatory for the examination of witnesses residing or being within the States of Tamaulipas or Coahuila, two of the United Mexican States, in the manner and form, and in the terms and conditions contained and set forth in the order of this court, made in the said last mentioned cause on the second day of July, 1849.

And afterwards, to wit, on the same day and year, the court here made an order in this cause, which is in the words and figures following, that is to say :

Order of court.

RAFAEL GARCIA CAVAZOS and others, }
vs. }
 CHARLES STILLMAN and others.

Upon motion of complainants, by counsel, for leave to withdraw from the files of this court the papers in Spanish, and the newspapers annexed to the affidavit of John Treanor, filed on the 28th day of May, 1849, for the purpose of obtaining proof of the signatures thereto, it is ordered that the same be and is hereby granted.

And afterwards, to wit, on the same day and year, the court here made an order in this cause, which is in the words and figures following, that is to say :

Order of court.

RAFAEL GARCIA CAVAZOS and others, }
 vs. }
 CHARLES STILLMAN and others. }

The motion of defendants, by counsel, to order the complainants to give further security for costs herein, this day came on and was heard. Upon consideration whereof, it is ordered that said motion be sustained.

And afterwards, to wit, on the same day and year, the court here made an order in this cause, in the words and figures following, that is to say:

Order of court.

RAFAEL GARCIA CAVAZOS and others, }
vs.
 CHARLES STILLMAN and others. }

The motion of defendants, by counsel, to order the complainants herein to file in court true and correct translations, in the English language, of each and every paper and document in the Spanish language, which complainants may file or seek to file in said cause,

either by way of exhibit, evidence, or voucher, and to order that all such translations be filed at the same time said papers and documents are filed, and that all papers now filed herein, being in the Spanish language, be correctly translated, and be subject to this order, came on and was heard; and the court being sufficiently advised thereof, it is ordered that said motion be sustained, and that it be extended to all the parties herein.

EBN. ALLEN & WM. G. HALE,
Of counsel for complainants.

JULY 25, 1849.

Came on to be heard, and the same was resisted by the counsel for two of the defendants, to wit, Patrick C. Shannon and Richard Fitzpatrick, and after the argument of counsel, and upon the mature consideration of the court, it is now hereby ordered that the said motion be granted, and that either party may have leave to take out letters rogatory for the examination of witnesses residing or being in the States of Tamaulipas and Coahuila, two of the United Mexican States, in the manner and form, and on the terms and conditions contained and set forth in the order of this court made in the other case in this court, wherein the same parties are plaintiffs and Simon Mussina is defendant, made on the 2d day of July, A. D. 1849. The counsel for the said defendants, Shannon and Fitzpatrick, however, again objected to this order of the court, and desired such his objection to be entered upon the minutes of the court, which is now done accordingly. And it is further ordered by the court that the foregoing order shall not prevent any of the parties to this cause from taking out a commission in the ordinary way, if it shall hereafter be found that the authorities of the above named States will allow such a commission to be executed within the territories thereof.

And afterwards, to wit, on the ninth day of August, at the August rules of said court, the complainant took a rule herein, which is as follows, to wit :

Rule.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

To Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, and W. W. Chapman, defendants:
Or to Volney E. Howard, Ovid F. Johnson, and Rice Garland, esquires, the solicitors of the said defendants.

GENTLEMEN: Please to take notice that we have this day filed several sets of interrogatories in the above entitled cause, to be propounded to various witnesses in the State of Tamaulipas, and that within three days we shall file additional interrogatories, to all of which you can file cross-interrogatories if you think proper.

EBN. ALLEN & WM. G. HALE,
Solicitors for complainants.

AUG. 9, 1849.

And on the same day and year the complainants, by their counsel, filed sets of interrogatories herein, which are in the following words and figures, that is to say :

Interrogatories to Don Domingo de la Garza and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Domingo de la Garza, Rafael Ramirez, Simon Garza, Rafael Gonzales, Santiago Longoria, Frailan Longoria, Juan Melano, Hilario Villareal, José Villareal, Tomas Guerra, Juan Rodriguez, Domingo Guerra, Francisco Vela, Faustino Balboa and Manuel Lopez Chapa, witnesses to be produced, sworn, and examined before the judge or tribunal in the city and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a cause therein pending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Cozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Musina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela, (or de los Angeles,) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Manuel Prieto are defendants, on the part of the said complainants.

Interrogatory first. Do you know a tract of land known by the name of "El Potrero del Espiritu Santo," or "El Agostadero del Espiritu Santo," upon the eastern side of the Rio Grande, opposite to Matamoras? If so, state to whom, according to tradition and general reputation, it was originally granted, who first took possession of it, and how long did he retain possession of it, according to such tradition and general reputation?

Interrogatory second. Do you know a place upon the said tract of land called "San Juan del Retiro?" If so where was this place situated? What buildings, according to tradition and general reputation, were placed there first, and by whom? What connection had Don José Salvador de la Garza with such place? and what use did he make of it, according to tradition and general reputation?

Interrogatory third. Do you know the plaintiffs in this cause, to wit: Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea, and the following defendants, Don Manuel Prieto, Doña Filiciano de Tigerina, Doña Angela Garcia Safen de Tarneva, and Don Ramon Safen? If so, what connexion have they with the said tract of land, known as "Del Agostadero del Espiritu Santo?"

Interrogatory fourth. Who, according to general reputation, and immemorial tradition has held possession of said tract of land, since the death of the said Don José Salvador de la Garza?

Interrogatory fifth. What are the names of the different farms or ranchos on the said tract of land, which have been held or

rented to others by the different owners of the said tract, heirs of the said Don José Salvador de la Garza, so far as you know? Where are the said farms or ranchos situated?

Interrogatory sixth. Do you know whether the persons named in the third interrogatory claim the said tract of land as their own property? If so, has or has not that claim been public and notorious, and known to all the citizens of Matamoras and the vicinity?

Interrogatory seventh. Do you know anything about a sale of the portion of the said tract of land formerly belonging to Don Josef Antonio Margil Prieto, to Don Ramon Safen, husband of Doña Maria Angela Garcia? If so, when was such sale made? and before what notary?

Interrogatory eighth and last. Do you know anything which may be of benefit or advantage to any of the parties in this cause, or which is material to the subject of this your examination? If so, set it forth at large in your answer.

ALLEN & HALE,

Of counsel for complainants.

Interrogatories to Don Joaquin Arguelles and others.

DISTRICT COURT OF THE UNITED STATES, *District of Texas.*

In Chancery.

Interrogatories to be propounded to Don Joaquin Arguelles, Don Francisco Arguelles, Don Rafael Gomez, Don Carlos Maria de la Garza, Don Santos Farias, Don Francisco Mayerga, and Don Andres Pueda, witnesses to be procured, sworn, and examined before the judge or tribunal of the city of Matamoras and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a cause therein pending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants.

Interrogatory first. Do you or not know the plaintiffs and defendants above named?

Interrogatory second. Look at the paper writing now exhibited to you, marked *A*, and purporting to be a copy of the testament of Doña Maria Francesca Cavazos. Did you know Antonio Escavedo, whose name is subscribed to such copy as notary public? Is the said Don Antonio Escaveda living or dead, or within the said State of Tamaulipas?

Interrogatory third. What was the place called in the commencement of the said testament "esta congregacion de Nuestra Señora del Refugio," and what is it now called? Was or was not the said Don

Antonio Escavedo, at the time of signing the said certificate, acting publicly and officially as notary public in the said place, under the laws of the State of Tamaulipas and the United Mexican States? Was he or not generally regarded and acknowledged as such notary?

Interrogatory fourth. Look at the paper writing now exhibited to you, marked *B*, and purporting to be a copy of an act of partition between the heirs of Doña Francesca Cavazos, Doña Maria Ignacio Cavazos, and Doña Josefa Cavazos, with the intervention of Don Rafael Garcia Cavazos, the husband of the latter. Did you know Don Bernardo Pedro Pablo Palaez, whose name is subscribed to such copy as notary public? Is the said Don Bernardo Pedro Pablo Palaez living or dead, or within the State of Tamaulipas? Are you acquainted with his handwriting and signature as notary, and if so, is or is not the certificate and signature appended to the said copy in the handwriting of the said Palaez as notary?

Interrogatory fifth. Was or was not the said Don Bernardo Pedro Pablo Palaez at the time of signing the said certificate, acting publicly and officially as notary public in the city of Matamoras, under the laws of the State of Tamaulipas, and the United Mexican States? Was he or not generally recognized and acknowledged as such notary?

Interrogatory sixth. Look at the paper writing now exhibited to you, marked *C*, and purporting to be a citation addressed to Don Rafael Garcia Cavazos, and signed by Don Juan José de la Garza. Are you or are you not acquainted with the handwriting and signature of the said Don Juan José de la Garza, and if so, is the signature to the citation his signature or not? What office in the city of Matamoras did the said Don Juan hold on the fifteenth day of July, 1835?

Interrogatory seventh. Look at the paper writing now exhibited to you, marked *D*, and purporting to be an order of Don Juan Prado, second constitutional alcalde of the city of Matamoras. Are you acquainted with the handwriting and signature of the said Don Juan Prado? and if so, is or is not the signature to the said order, on the left side, his signature in fact? Is or is not the signature on the right hand side the true signature of Don Bernardo Pedro Pablo Palaez as notary public?

Interrogatory eighth. Is it customary or not, in Mexico, to use all the names of any person in speaking of them, or in their signatures, as for instance, is it or not necessary to say or write Maria Josefa Cavazos, and not Josefa Cavazos alone? Which is the most usual way of writing?

Interrogatory ninth and last. Do you know anything else which may be a benefit or advantage to the parties in this cause, or which may be material to the subject of this your examination? If yea, set it forth at large in your answer.

ALLEN & HALE,
Of counsel for complainants.

Interrogatories to Don Juan Nepomuceno Molano.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Don Juan Nepomuceno Molano, of the city of Victoria and State of Tamaulipas, a witness to be produced, sworn and examined before the judge or tribunal of the said city and State, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a cause therein pending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the complainants.

Interrogatory first. Are you acquainted with the plaintiffs and any of the said defendants?

Interrogatory second. Were you ever a notary public in the city of Matamoras? and if so, when?

Interrogatory third. Were you, or not, ever first constitutional alcalde of the city of Matamoras, and if so, in what years?

Interrogatory fourth. Look at the document marked *L*, now presented to you, and purporting to be a copy of a title issued to Don José Salvador de la Garza. Is or is not the signature on the thirtieth leaf, purporting to be your signature, yours in fact? Are the signatures of the assisting witnesses, to wit: Francisco Mayerga and Marcus Galindo, genuine and true?

Interrogatory fifth. Is or is not the said document an accurate and legal copy of the title, or testimonio of title, of which it professes to be a copy?

Interrogatory sixth. By whom was the original title or testimonio of title, of which the said document is a copy, presented to you for copying? Was this person anywise connected with the family or descendants of Don José Salvador de la Garza?

Interrogatory seventh. What was the appearance of the said title, or testimonio of title, at the time when it was presented to you? Did it or not bear marks of age; and if so, what marks?

Interrogatory eighth. Were you not first constitutional alcalde of the city of Matamoras in the month of April, A. D. 1837?

Interrogatory ninth. Look at this paper writing now exhibited to you, marked *M*, and purporting to be a citation signed by yourself, and directed to Don Rafael Garcia Cavazos; is or is not the signature, at the end of said citation, in fact yours? In what official capacity did you sign the said citation?

Interrogatory tenth and last. Do you know any other thing which

may be a benefit or advantage to any of the parties at issue in this suit, or material to the subject of this your examination? If yea, set it forth at large in your answer.

ALLEN & HALE,
Of Council for Complainants.

Interrogatories to Don Antonio Ximenes Valdes and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Don Antonio Ximenes Valdes and Don Capriano Guerrero, of the city of Victoria, and State of Tamaulipas, witnesses to be produced, sworn, and examined before the judge or tribunal of the said city and State, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a certain cause pending in the said court, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the complainants.

Interrogatory first. Are you or not acquainted with the plaintiffs and defendants above mentioned?

Interrogatory second. Look at the several paper writings now exhibited to you, marked *G, H, I, J, K*, and purporting to be copies of documents in the archives of the State of Tamaulipas, relating to the petition of John Treanor, against the ayuntamiento of the city of Matamoras, certified by Rufino Rodriguez and yourself. Are you acquainted with the handwriting and signature of the said Rufino Rodriguez; and if so, is the signature to each of the said copies in fact his signature? What office did the said Rufino Rodriguez hold at the time of signing the said copies?

Interrogatory third. Look at the stamped seal upon the left hand side of the first page of each of the said copies. Are or are not these seals the proper seals of the office of secretary of state of the State of Tamaulipas?

Interrogatory fourth. Are the signatures to the certificates annexed to the said copies, purporting to be your, signatures, in fact yours? If so, in what official capacity did you act in attaching them to the said certificates?

Interrogatory fifth and last. Do you know anything which may be of benefit or advantage to any of the parties at issue in this cause, or material to the subject of this your examination? If so, set it forth fully and at large in your answer.

Interrogatories to Don Rufino Rodriguez and another.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Don Rufino Rodriguez and Doctor Ramon F. Valdez, witnesses to be produced, sworn, and examined before the judge or tribunal in the city of Victoria, in the State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a certain cause therein depending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angelo (or de los Angeles) Garcia Safen de Tarnava, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the complainants.

Interrogatory first. Do you or not know the plaintiffs and defendants above named?

Interrogatory second. What office do you hold under the government of the State of Tamaulipas, and how long have you so held it?

Interrogatory third. Look at the document now exhibited to you, marked *N*, and purporting to be a copy of the old constitution of the State of Tamaulipas promulgated in ———. Is this document or not a true copy of the original in the archives of the State?

Interrogatory fourth. Look at the document now exhibited to you, marked *O*, and purporting to be a copy of the new constitution of the State of Tamaulipas, promulgated in April, 1848. Is or is not the said document a true and legal copy of the original in the archives of the said State?

Interrogatory fifth. Look at the document marked *P*, now exhibited to you, and purporting to be a copy of the colonization law of the State of Tamaulipas, promulgated in December, 1826. Is or is not the said document a true and legal copy of the original in the archives of the said State?

Interrogatory sixth. Look at the printed book marked *Q*, now exhibited to you, and purporting to contain certain of the laws of the State of Tamaulipas. Is or is not the said book composed of true and legal copies of the original laws, decrees, and other documents in the archives of the said State?

Interrogatory seventh. Look at the several paper writings now presented to you, marked *G*, *H*, *I*, *J*, *K*, and purporting to be copies of documents in the archives in the said State relative to the petition of John Treanor against the ayuntamiento of Matamoras, certified by Don Rufino Rodriguez. Is or is not the signature annexed to the certificate the true signature of the said Don Rufino Rodriguez? Are or are not the said paper writings true and legal copies of the originals in the archives of the said State?

Interrogatory eighth. Look at the paper writing now exhibited to you, marked *R*, and purporting to be a notification by the governor of the said State of a decree of the congress thereof. Are you acquainted with the handwriting and signature of Don Jesus Cardenas, the governor, and Doctor Don Ramon F. Valdez, the secretary of state of the said State? If so, are the signatures at the end of the said paper their true and genuine signatures or not?

Ninth and last interrogatory. Do you know anything which may be a benefit or advantage to any of the parties in this cause, or material to the subject of this your examination? If yea, set it forth at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

Interrogatories to Don J. Antonio Leal de Leon and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Don J. Antonio Leal de Leon, Don Manuel de la Viña, Don Rafael Pariente, Don Antonio Dominguez, Don Gorge Cavazos, Don Felis de Leon, Don Blas Maria Cavazos, Don Santiago Dominguez, Don Christoval Morales, Don Trinidad Aldrete, and Don Maximiano Valverde, witnesses to be produced, sworn, and examined before the judge or tribunal in the town of Camargo, and State of Tamaulipas, acting under the annexed letter rogatory for the district court of the United States for the district of Texas, in a certain cause therein pending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants.

Interrogatory first. Do you know the plaintiffs and defendants above named?

Interrogatory second. Do you know the tract of land on the east side of the Rio Grande, opposite to Matamoras, called, "El Potrero del Espiritu Santo?" If so, to whom, according to immemorial tradition and general reputation, was it first granted? who first took possession of it, and when?

Interrogatory third. Who have had possession of the said tract of land, since the death of Don José Salvador de la Garza, as owners thereof?

Interrogatory fourth. Look at the paper writing now exhibited to you, marked *E*, and purporting to be a copy of the statement of Don Blas Maria de la Garza. Is or is not the signature at the end thereof, purporting to be your signature, in fact yours?

Interrogatory fifth. Are you or not acquainted with the handwriting of J. Antonio Leal de Leon, Manuel de la Viña, and Rafael Pariente? If so, are or are not the signatures to the said paper writing their true signatures, and is or is not the said paper writing a true copy of the original testament?

Interrogatory sixth. Look at the paper writing marked *F*, now exhibited to you, [see original,] purporting to be a copy of the testament of Doña Maria Gertudis de la Garza Falcon. Is or is not the signature at the end thereof, purporting to be yours, yours *yours* in fact?

Interrogatory seventh. Are you, or not, acquainted with the handwriting and signatures of Santiago Dominguez, Christoval Morales and Trinidad Aldrete? If so, are or are not the signatures to the said paper writing their true signatures? And is, or is not, the said paper writing a true and legal copy of the original testament?

Interrogatory eighth and last. Do you know any other thing which may be a benefit or advantage to the parties at issue in this cause, or which may be of importance in this your examination? If yea, set it forth fully and at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

And afterwards, to wit, on the thirteenth day of August of the same year, the complainants herein, by their solicitors, filed several sets of interrogatories, which are as follows, to wit:

Interrogatories to Don Joaquin Arguelles and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Don Joaquin Arguelles and Don Andres Trevino, witnesses to be produced, sworn and examined before the judge or tribunal of the city of Matamoras and State of Tamaulipas, acting under the accompanying letter rogatory from the district court of the United States of America for the district of Texas, in a certain cause therein pending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela [or de los Angeles] Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Joseph Manuel Prieto are defendants, on the part of the said complainants.

Interrogatory first. [To each.] Do you know the plaintiffs and defendants above named or not?

Interrogatory second. [To Don Joaquin Arguelles.] Have you or not at any time seen the old title, or testimonio of title, issued to Don Jose Salvador de la Garza, under which the plaintiffs claim the

right of possession to the said land? When did you see it? In whose hands was it?

Interrogatory third. [To Don Joaquin Arguelles.] Has this old title ever been presented to you to copy? and by whom? What was its appearance at that time? What signs of age had it? By whom was it presented to you?

Interrogatory fourth. [To Don Andres Trevino.] Look at this paper writing now presented to you and marked X, purporting to be a copy of the 41st and 42d articles of the municipal ordinance of the city of Matamoras, promulgated on the 2d June, 1834. Is or is not the signature at the end of the said paper writing your own signature? If so, in virtue of what office did you sign it? Is or is not the said paper writing a true copy of the original?

Interrogatory fifth. [To Don Joaquin Arguelles.] Look at the paper writing above mentioned, marked X. Do you know the handwriting and signature of Don Andres Trevino? If so, is or is not the signature at the end of the same his true signature? What office was he holding in May, 1849, in the city of Matamoras?

Interrogatory sixth and last. Do you know anything else which may be a benefit or advantage to either of the parties at issue in this cause, or material to the subject of this your examination? If yea, set it forth at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

Interrogatories to Don Sabas Cavazos and Don Miguel Cavazos.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Don Sabas Cavazos and Don Miguel Cavazos, witnesses to be produced, sworn and examined before the judge or tribunal of the city of Matamoras and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a certain cause therein depending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafano Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela [or de los Angeles] Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants.

Interrogatory first. Do you know the plaintiffs and defendants above mentioned?

Interrogatory second. Have you or not at any time seen the old title, or testimonio of title, issued to Don José Salvador de la Garza, under which the plaintiffs claim to have a right of possession to a certain tract of land on the east or left side of the Rio Grande, called El Potrero del Espiritu Santo? When did you see it? In whose hands was it?

Interrogatory third. Who has had possession of the said testimonio of title before 1849? How long had he or she had possession of it? Who had possession of it before? How long has it been in existence?

Interrogatory fourth. To whom was the said testimonio delivered in the beginning of 1849, or the end of the year 1848? What connexion had this person with the family of Don Rafael Garcia Cavazos?

Interrogatory fifth. Where does Doña Estafana Gozeascochea de Cortina reside? Is or is not this place on the tract of land known as El Potrero, or Agostadero del Espiritu Santo? How long has she resided there? Who resided there before her?

Interrogatory sixth. Do you know any other thing which may be a benefit or advantage to either of the parties in this cause, or which may be material to the subject of this your examination? If yea, set it forth at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

Interrogatories to Presbotoero Don Jose Maria Rodriguez.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Presbotoero Don José Maria Rodriguez, a witness to be produced, sworn and examined before the judge or tribunal, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a certain cause therein depending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela [or de los Angeles] Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants.

Interrogatory first. Do you know the plaintiffs and defendants above named?

Interrogatory second. Look on this paper writing, marked *S*, purporting to be a copy of an entry in the register of marriages in the parish church of the town of Reynosa, relative to the marriage of Don Blas Maria de la Garza. Are you or not acquainted with the handwriting and signature of Presbitero Don Antonio de la Garza Rodriguez, curate of the said town? If so, is or is not the signature at the end of such paper writing his true signature?

Interrogatory third. Look on these paper writings, marked *T U*, now exhibited to you, purporting to be copies of two entries made in the registers of marriages in the parish church of the town of Camargo, relative to the marriage of Doña Xaviera de la Garza, and Doña Antonio Margarita de la Garza. Are you acquainted with the handwriting and signature of the Presbitero Don José Francisco

Recio, curate of the said town? If so, is or is not the signature affixed to each of the said paper writings his true signature?

Interrogatory fourth. Are you or not the curate of the city of Matamoras and its jurisdiction? If not, who is the curate? If you are, are there not under your charge the registers of the marriages and deaths which have taken place in the said city since the year 1800? If so, when does it appear, from the said registers, that Don Blas Maria de la Garza died? Annex to your answer to this question a true copy of any entry in the said registers relative to the death of the said Don Blas.

Interrogatory fifth. When does it appear, from the said registers, that Doña Francisca Xaviera de la Garza died? Annex to your answer to this question a true copy of any entry in the said registers relative to the death of the said Doña Francisca Xaviera.

Interrogatory sixth. When does it appear, from the said registers, that Doña Francisca Cavazos died? Annex to your answer to this question a true copy of any entry in the said registers relative to the death of the said Doña Francisca Cavazos.

Interrogatory seventh. When does it appear, from the said registers, that Don Ramon Safen was married, and to whom? Annex to your answer to this question a true copy of any entry in the said registers relative to the marriage of the said Don Ramon Safen.

Interrogatory eighth. When does it appear, from said registers, that Doña Maria Josefa Cavazos was married, and to whom? Annex to your answer to this interrogatory a true copy of any entry in the said registers relative to the marriage of the said Doña Maria Josefa.

Interrogatory ninth. Do you know anything else which may be a benefit or advantage to either of the parties in this cause, or which may be of importance in this your examination? If yea, set it forth at large in your answer.

ALLEN & HALE.

Of Counsel for Complainants.

Interrogatories to Don Francisco Cantu and others.

DISTRICT COURT OF THE UNITED STATES,

District of Texas.

In Chancery.

Interrogatories to be propounded to Don Francisco Cantu, Don Jesus de Abridges, Don Alvino Lopez, Don Frederico O'Boyle, Don Juan Fernandez, Don Francisco Fernandez, Don Callixto Partilla, Don Juan Partilla, Don Miguel Echasarelte, Don Antonio Fernandez, Don Rague Treviño, Don Rafael Gonzales, Don Espiridion Villaral, Don Manuel Lopez, and Don Miguel Lopez, witnesses to be produced, sworn, and examined before the judge or tribunal in the city of Matamoras and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States

of America for the district of Texas, in a certain cause therein pending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants.

Interrogatory first. Do you know the plaintiffs and defendants above named?

Interrogatory second. Do you know a tract of land on the east of left side of the Rio Grande, called "El Potrero del Espiritu Santo," or "El Agostadero del Espiritu Santo"? If so, to whom, according to immemorial tradition and general reputation was it originally granted? Who first took possession of it, according to such tradition and general reputation?

Interrogatory third. Do you know a place upon the said tract of land called "San Juan del Retiro"? If so, where was this place situated? What buildings, according to tradition and general reputation, were placed there first, and by whom? What connexion had Don José Salvador de la Garza with such place, and what use did he make of it, according to such tradition and general reputation?

Interrogatory fourth. Who, according to immemorial tradition and general reputation, have held possession of the said tract of land since the death of the said Don José Salvador de la Garza?

Interrogatory fifth. Who of the following persons, to wit, Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, Doña Estafana Cozeascochea de Cortina, Doña Feliciano de Tigerina, Don Manuel Prieto, Doña Maria Angela Garcia Safen de Tarneva, and Don Ramon Safen have possession of the said tract of land and use it as their own? What number of cattle have they in the said tract, and have they or not erected houses, *hacals*, *corrals*, fences, &c., on the said land?

Interrogatory sixth. Where does the said Doña Estafana now live? Is this place or not upon the Potrero del Espiritu Santo? How long has she lived there? Who lived there before her?

Interrogatory seventh. What are the names of the several farms or *ranchos* on the said tract of land, which have been held, or rented to others, by the owners thereof, heirs of the said Don José Salvador de la Garza? Where are such ranchos situated?

Interrogatory eighth. [To Don Espiridion Villareal, Don Manuel Lopez, and Don Miguel Lopez.] To whom did Don Enrique Villareal and Don Andres Ramires pay rent for a portion of the said tract of land; where was such portion situated; when did they so pay rent?

Interrogatory ninth. [To the same.] Where is the place or rancho called Paso Yiejo situated; who had possession of it in 1836; to whom did he pay rent for it?

Interrogatory tenth. [To all.] Do you know whether the persons named in the fifth interrogatory claim the said tract of land as their own property or not? If so, has or has not such claim been public

and notorious, and known to all the citizens of Matamoras and the vicinity?

Interrogatory eleventh. Do you know anything of a sale of the portion of the said tract of land formerly belonging to Don Josef Antonio Margil Prieto, to Don Ramon Safen, husband of Doña Maria Angela Garcia? If so, when was it made, and before what notary?

Interrogatory twelfth. To whom was the said Don Ramon Safen married, and when? What children had he living at the time of his death?

Interrogatory thirteenth. Look at this paper writing now exhibited to you, and purporting to be a letter from Don Enrique Villareal, to Don Rafael Garcia Cavazos. Do you or not know the handwriting and signature of the said Don Enrique Villareal? If so, is or is not this letter in his handwriting, and is or is not the signature at the end of the said letter his true and proper signature?

Interrogatory fourteenth. Is the said Don Enrique Villareal alive or not? When did he die?

Interrogatory fifteenth. In whose possession has the old testimonio of title issued to Don José Salvador de la Garza remained since 1828? In whose possession was it before? Has or has not the existence of the said old testimonio of title been public and notorious to the citizens of Matamoras and the vicinity?

Interrogatory sixteenth. Do you know anything else which may be a benefit or advantage to the parties in this cause, or which may be material to the subject of this your examination? If yea, set it forth at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

Interrogatories to witnesses upon pedigree.—Matamoras.

DISTRICT COURT OF THE UNITED STATES, *District of Texas.*

In Chancery.

Interrogatories to be propounded to the witnesses to be produced, sworn, and examined before the judge or tribunal in the city of Matamoras and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a cause pending in the said court, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants.

First. Do you or not know the plaintiffs aforesaid, to wit: Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Goseascochea de Cortina, and also the defendants above named?

Second. Are you or are you not a relation of any of said plaintiffs or defendants? and if so, of whom?

Third. Have you or not ever heard any of the parents, relations, or ancestors, now deceased, of the said plaintiffs speak, in their lifetime, about Don José Salvador de la Garza? If so, what relation did they say he was to them, and to the said plaintiffs, or any one of them? Who did they say was the wife of the said Don José Salvador de la Garza? When did they say he was married? When did he die? How many children had he, and what were their names?

Interrogatory fourth. Have you or not ever heard any of the parents, relations, or ancestors, now deceased, of the said plaintiffs (and if so, whom?) speak, in their lifetime, about Don Blas Maria de la Garza? If so, what relation did they say he bore to them, or to the said plaintiffs or defendants, or any one of them? Who did they say was his father? Who was his mother? When was he married, and to whom? When did he die? What children, if any, did he have living at the time of his death?

Interrogatory fifth. Have you or not ever heard any of the parents, relations, or ancestors, now deceased, of the said plaintiffs (and if so, whom?) speak, in their lifetime, about Doña Francisca Xaviera (or Jabiera) de la Garza? If so, what relation did they say she bore to them or to the said plaintiffs and defendants, or any one of them? Who, did they say, was her father? Who was her mother? When was she married, and to whom? When did she die? What children did she have living at the time of her death?

Interrogatory sixth. Have you or not ever heard any of the parents, relations, or ancestors, now deceased, of the said plaintiffs speak, in their lifetime, about Doña Maria, or Antonia Margarita de la Garza? If so, what relation did they say she bore to them or to the said plaintiffs or defendants, or any of them? Who did they say was her father? Who was her mother? When was she married, and to her whom? When did she die? What children did she have living at the time of her death?

Interrogatory seventh. Have you or not ever heard any of the parents, relations, or ancestors, now deceased, (and, if so, whom?) of the said plaintiffs speak, in their lifetime, about Doña Francisca Cavazos? If so, to whom did they say she was married, and when? What relation did they say she was to Doña Maria Ignacia Cavazos, and when did she die? And what children did they say she had living at the time of her death, if any?

Interrogatory eighth. Were you or not ever acquainted with Doña Francisca Cavazos? Were you or not acquainted with her family or relations? If so, to whom was she married? What children of hers, if any, were living at the time of her death?

Interrogatory ninth. Were you or not acquainted with the family of Doña Maria Ignacia Cavazos? If so, was or was not Doña Maria Josefa Cavazos a daughter of the said Doña Maria Ignacia Cavazos?

Interrogatory tenth. Are you or not acquainted with the families of Doña Estafana Gozeascochea de Cortina and Doña Feliciana de Tigerina? If so, who was the mother, and who was the father of the said Doña Estafana and Doña Feliciana? Who did the said Doña Estafana marry? Is her husband living or dead? Who did the said Doña Feliciana marry? Is her husband living or dead?

Interrogatory eleventh. Are you or not acquainted with the families of Don Josef Antonio Margil Prieto (or Don Antonio Prieto) and of Don Josef Manuel Prieto, or Don Manuel Prieto? If so, who was their father? Who was their mother? Is the said Don Antonio now living or dead? And did he leave any children living at the time of his death?

Interrogatory twelfth. Who, according to general reputation or belief, in places where the family was known, was the father of Don Blas Maria de la Garza? Who was his mother? Who was the wife of the said Don Blas? When did he die? When did his wife die? What children, if any, had they living at the time of their death?

Interrogatory thirteenth. Who, according to general reputation and belief in places where the family was known, was the mother of Doña Maria Josefa Cavazos? What relation was the mother of Doña Maria Josefa Cavazos to Doña Francisca Cavazos, wife of Don Blas Maria de la Garza?

Interrogatory fourteenth. Who, according to general reputation and belief in places where the family was known, was the father of Doña Antonio Xaviera (or Jabeira) de la Garza? Who was her mother? Who was the husband of the said Doña Xaviera. Who were her children? When did she die?

Interrogatory fifteenth. Who, according to general reputation and belief in places where the family was known, was the father of Doña Maria (or Antonia) Margarita de la Garza? Who was her mother? Who was her husband? Who were her children?

Interrogatory sixteenth. Who, according to general reputation and belief in places where the family was known, was the father and the mother of Doña Estafana Gozeascochea de Cortina and Doña Feliciana de Tigerina?

Interrogatory seventeenth. Who, according to general reputation and belief in places where the family was known, was the father and the mother of the said Don Antonio Prieto and Don Manuel Prieto?

Interrogatory eighteenth. Are you a son of any of the complainants in this cause, or of Don Manuel Prieto, or Doña Feliciana de Tigerina? If so, state who was the mother of Doña Maria Josefa Cavazos? Who was the mother of Doña Feliciana de Tigerina and Doña Estafana Gozeascochea de Cortina? Who was the mother of Don Antonio Prieto and Don Manuel Prieto?

Interrogatory nineteenth. Are the following persons, Don José Salvader de la Garza, Don Blas Maria de la Garza, Doña Antonia Margarita de la Garza, Doña Francisca Xaviera de la Garza, Doña Francisca Cavazos, and Don Antonio Prieto, now living or dead?

Interrogatory twentieth. Is it or not customary in Mexico to use all the names of any person in speaking of them, or in their signatures? For example, is it necessary or not to say or write *Maria Josefa Cavazos*, and not *Josefa Cavazos* simply? Which is the most usual in writing?

ALLEN & HALE,
Of Counsel for Complainants.

Interrogatory twenty-first and last. Do you know anything else which may be a benefit or advantage to either of the parties in this cause, or material in this your examination? If yea, set forth the same at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

Interrogatories to Don Jesus Cardenas and others.

DISTRICT COURT OF THE UNITED STATES, }
District of Texas. }

In Chancery.

Interrogatories to be propounded to His Excellency Don Jesus Cardenas, Don Ramon F. Valdes, Licenceado Don José Nuñez de Carceres, and Don Eleno de Vargas, witnesses, to be produced, sworn, and examined before the judge or tribunal in the city of Victoria and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a certain cause therein depending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Goseascochea de Cortina, are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarnava, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants.

Interrogatory first. [To Don Jesus Cardenas y D. Ramon F. Valdez.] What office do you hold in the government of the State of Tamaulipas?

Interrogatory second. [To Sir Don José Nuñez de Carceres y Don Eleno de Vargas.] Are you acquainted with the laws and legal usages prevailing in the State of Tamaulipas? Have you or not been a deputy in the congress of the State, or a lawyer?

Interrogatory third. Do or do not the laws and policy of that State allow a court of a foreign country to appoint a private person residing within the State, or a foreigner, to make judicial examination of witnesses upon oath?

Interrogatory fourth. Do or do not the laws and policy of that State allow a court of a foreign country to appoint a private person, within the said State, to administer oaths?

Interrogatory fifth. Do you know any other thing which may be a benefit or advantage to either of the parties at issue in this cause? If yea, set it forth at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

Interrogatories to witnesses upon pedigree.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to the witnesses to be produced, sworn, and examined before the judge or tribunal of the town of Camargo and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a cause pending in the said court, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Goseascochea de Cortina, are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarnava, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants.

First. Do you or not know the plaintiffs aforesaid, to wit, Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Goseascochea de Cortina, and also the defendants above named?

Second. Are you or are you not a relative of any of said plaintiffs or defendants; and if so, of whom?

Third. Have you or not ever heard any of the parents, relatives, or ancestors, now deceased, of the said plaintiffs speak, in their lifetime, about Don José Salvador de la Garza? If so, what relation did they say he was to them and to the said plaintiffs, or any one of them? Who did they say was the wife of the said Don José Salvador de la Garza? When did they say he was married? When did he die? How many children had he, and what were their names?

Interrogatory fourth. Have you or not ever heard any of the parents, relations, or ancestors, now deceased, of the said plaintiffs (and if so, when) speak, in their lifetime, about Don Blas Maria de la Garza? If so, what relation did they say he bore to them, or to the said plaintiffs or defendants, or any one of them? Who did they say was his father? Who was his mother? When was he married, and to whom? When did he die? What children, if any, did he have living at the time of his death?

Interrogatory fifth. Have you or not ever heard any of the parents, relations, or ancestors, now deceased, of the said plaintiffs (and if so, whom) speak, in their lifetime, about Doña Francisca Xaviera, or Jabiera de la Garza? If so, what relation did they say she bore to them, or to the said plaintiffs or defendants, or any one of them? Who did they say was her father? Who was her mother? When was she married, and to whom? When did she die? What children did she have living at the time of her death?

Interrogatory sixth. Have you or not ever heard any of the parents, relations, or ancestors, now deceased, of the said plaintiffs speak, in their lifetime, about Doña Maria or Antonia Margarita de la Garza?

If so, what relation did they say she bore to them, and to the said plaintiffs or defendants, or any of them? Who did they say was her father? Who was her mother? When was she married, and to whom? When did she die? What children did she have living at the time of her death?

Interrogatory seventh. Have you or not ever heard any of the parents, relatives, or ancestors, now deceased, (and if so, whom,) of the said plaintiffs speak, in their lifetime, about Doña Francisca Cavazos? If so, to whom did they say she was married, and when? What relation did they say she was to Doña Maria Ignacio Cavazos, and when did she die? And what children did they say she had living at the time of her death, if any?

Interrogatory eighth. Were you or not ever acquainted with Doña Francisca Cavazos? Were you or not acquainted with her family or relations? If so, to whom was she married? What children of hers, if any, were living at the time of her death?

Interrogatory ninth. Were you or not acquainted with the family of Doña Maria Ignacio Cavazos? If so, was or was not Doña Maria Josefa Cavazos a daughter of the said Doña Maria Ignacio Cavazos?

Interrogatory tenth. Are you or not acquainted with the family of Doña Estafana Goseascochea de Cortina, and Doña Feliciana de Tigerina? Who did the said Doña Estafana marry? Is her husband living or dead? Who did the said Doña Feliciana marry? Is her husband living or dead?

Interrogatory eleventh. Are you or not acquainted with the families of Don Josef Antonio Margil Prieto (or Don Antonio Prieto,) and of Don Josef Manuel Prieto (or Don Manuel Prieto)? If so, who was their father? Who was their mother? Is the said Don Antonio now living or dead? And did he leave any children living at the time of his death?

Interrogatory twelfth. Who, according to general reputation and belief, in places where the family was known, was the father of Don Blas Maria de la Garza? Who was his mother? Who was the wife of the said Don Blas? When did he die? When did his wife die? What children, if any, had they living at the time of their death?

Interrogatory thirteenth. Who, according to general reputation and belief, in places where the family was known, was the mother of Doña Maria Josefa Cavazos? What relation was the mother of Doña Maria Josefa Cavazos to Doña Francisca Cavazos, wife of Don Blas Maria de la Garza?

Interrogatory fourteenth. Who, according to general reputation and belief, in places where the family was known, was the father of Doña Antonia Xaviera (or Jabiera) de la Garza? Who was her mother? Who was the husband of the said Doña Xaviera? Who were her children? When did she die?

Interrogatory fifteenth. Who, according to general reputation and belief, in places where the family was known, was the father of Doña Maria or Antonia Margarita de la Garza? Who was her mother? Who was her husband? Who were her children?

Interrogatory sixteenth. Who, according to general reputation and

belief, in places where the family was known, was the father and mother of Doña Estafana Gozeascochea de Cortina, and Doña Feliciana de Tigerina?

Interrogatory seventeenth. Who, according to general reputation and belief, in places where the family was known, was the father and mother of the said Don Antonio Prieto and Don Manuel Prieto?

Interrogatory eighteenth. Are you a son of any of the complainants in this cause—of Don Manuel Prieto or Doña Feliciana de Tigerina? If so, state who was the mother of Doña Maria Josef Cavazos. Who was the mother of Doña Feliciana de Tigerina and Doña Estafana Gozeascochea de Cortina? Who was the mother of Doña Antonia Prieto and Don Manuel Prieto?

Interrogatory nineteenth. Are the following persons, Don José Salvador de la Garza, Don Blas Maria de la Garza, Doña Antonia Margarita de la Garza, Doña Francisca Xaviera de la Garza, Doña Francisca Cavazos, and Don Antonio Prieto now living or dead?

Interrogatory twentieth. Is it customary or nor in Mexico to use all the names of any person, in speaking of them, or in their signatures? As for example: Is it necessary or not to say or write *Maria Josefa Cavazos*, and not *Josefa Cavazos*, simply? Which is the most usual way of writing?

Interrogatory twenty-first and last. Do you know anything else which may be a benefit or advantage to either of the parties at issue in this cause, or material in this your examination? If so, set it forth at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

And afterwards, to wit, on the fifteenth day of August of the same year, the following affidavit of William G. Hale, esq., was filed herein, which said affidavit is in the following words, that is to say:

Affidavit of Notice.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

To Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, and W. W. Chapman, defendants:

Or to Volney E. Howard, Ovid F. Johnson, and Joseph A. Swett, and Rice Garland, esquires, solicitors of the above named defendants:

GENTLEMEN: Please to take notice that on the ninth day of August, 1849, and on the thirteenth and fourteenth days of the same month, we filed in the clerk's office several sets of interrogatories, to be propounded to witnesses residing within the State of Tamaulipas, under letters rogatory to be issued in conformity to the orders of the court made on the eighth day of August, 1849; and if you desire to file

cross-interrogatories, you can do so within the term of fifteen days from the date of this notice, after which the letters will issue.

Very respectfully, your obedient servants,

EBN. ALLEN & WM. G. HALE,
Solicitors for Complainants.

AUGUST 14, 1849.

UNITED STATES OF AMERICA,
District of Texas.

I, William G. Hale, one of the solicitors of the complainants in the above entitled cause, make oath and say that on the fourteenth day of August, 1849, I served a true copy of the above notice on Ovid F. Johnson, esquire, one of the solicitors of Jacob Mussina, and representing Volney E. Howard, solicitor of Charles Stillman and Samuel A. Belden; and that on the same day I also served a true copy of the above notice on Rice Garland, esquire, solicitor of Patrick C. Shannon and Richard Fitzpatrick.

WILLIAM G. HALE.

Subscribed and sworn to before me on the 15th day of August, 1849.

JAMES LOVE, *Clerk.*

And afterwards, to wit, on the sixteenth day of August of the same year, the court here made an order in this cause, which is of the words following, that is to say :

Order of court.

RAFAEL GARCIA CAVAZOS *et al.* }
vs.
CHARLES STILLMAN *et al.* }

Upon motion of counsel for plaintiffs in the above entitled causes, it is ordered by the court that the former order in said cause, requiring both parties to file translations of any document in the Spanish language filed by them at the time of the filing of the originals, be so amended as to require the parties to file the said translations as soon as practicable after the filing of the originals.

And afterwards, to wit, on the seventeenth day of August of the same year, the complainants herein filed their motion, which is in the following words and figures, that is to say :

Motion.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs.
CHARLES STILLMAN and others. }

Ebenezer Allen and William G. Hale, of counsel for complainants the above entitled cause, suggesting the distance of the residences

of most of the witnesses in this cause, and the uncertainty and difficulty of communication, as well as the importance and magnitude of the interests involved, move this honorable court to enlarge the time for taking testimony upon the issues joined until the first Monday of December, 1849.

EBN. ALLEN & WM. G. HALE,
Of counsel for complainants.

AUGUST 17, 1849.

No objection.—R. G.

And afterwards, to wit, on the same day and year, there was filed in the court here the following cross-interrogatories—that is to say:

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

In Chancery.

The defendants, Patrick C. Shannon and Richard Fitzpatrick, reserving to themselves all legal objections to the testimony sought to be procured by the interrogatories of the plaintiffs, the competency of the witnesses, the admissibility of the evidence, the form and effect of the interrogatories, the manner of issuing the letter rogatory, and the manner of executing the same, as well as all other objections and exceptions which can be taken, and particularly objecting to any papers or documents of any kind being exhibited to the witnesses on their examination which have not been filed as exhibits in the cause, or filed with the interrogatories, now propound the following cross-interrogatories to the witnesses, requesting each to be fully and particularly answered:

First. What is your age, and present occupation or vocation; and are you in any manner related by blood or affinity to any of the parties to this suit? If you are, state particularly in what way you are related, and in what degree.

Second. If you shall answer the plaintiffs' first interrogatory in the affirmative, how long have you been acquainted with the party or parties, and where?

Third. If ever you were a notary public in the city of Matamoras, is there, or not, in existence in the public archives of the State of Tamaulipas, or elsewhere, authentic and written evidence of the fact, which the plaintiffs can procure by the use of proper means and diligence, or copies thereof?

Fourth. If you ever were first constitutional alcalde of the city of Matamoras at any time or times, is there, or not, in existence in the public archives of that city, or elsewhere, authentic or written documents, or evidence of the fact, which the plaintiffs can procure by the use of proper means and diligence, or copies thereof?

Fifth. If, in answer to the plaintiffs' fourth interrogatory, you shall speak of the signatures of Francisco Mayorga and Marcus Galindo, can you say on oath that you recollect their signing their names at the time specified, and that you saw them do so?

Sixth. Did you, in person, make the document or copy of a pretended title now exhibited to you? If you did not, have you any other evidence of its being a true and correct copy other than that a paper or papers bearing your signature is now presented to you to look at? If you have any such evidence or facts, what are they?

Seventh. At the time a pretended copy of a pretended title to Don José Salvador de la Garza was presented to you to be certified as mentioned, was the original a part of the records and archives of your office, or did it in any manner belong to the records of your office?

Eighth. If you were first constitutional alcalde of the city of Matamoras in the month of April, A. D. 1837, is there, or not, written and authentic documents and papers in existence to prove the fact, which are accessible to the plaintiffs, and can be procured by the use of proper diligence and means?

Ninth. Do you, or not, know that the pretended title to Don José Salvador de la Garza, a pretended copy of which is shown you, has been annulled, or avoided in whole or in part, by legal and competent authority in the State of Tamaulipas, or republic of Mexico? If you are informed in relation to the matter, please to state all you know about such a proceeding or proceedings, and where the evidence of them now is or may be probably found.

Tenth. At whose instance and request do you give your evidence; and how much, or what compensation in money, or any other thing, does the plaintiffs, or any one of them, or any other person, give or make you for giving your testimony herein? State fully and particularly.

R. GARLAND,

Solicitor for Shannon and Fitzpatrick.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

In Chancery.

The defendants, Patrick C. Shannon and Richard Fitzpatrick, reserving to themselves all legal objections to the testimony sought to be procured by the interrogatories of the plaintiffs, the competency of the witnesses, the admissibility of their testimony, the form and effect of the interrogatories, the manner of issuing the letter rogatory, and the manner of executing the same, as well as all other objections and exceptions which can be taken, and particularly objecting to any papers or documents of any kind being exhibited to the witnesses on their examination which have not been filed as exhibits in the cause, or filed with the interrogatories, now propound the following cross-

interrogatories to the witnesses, requesting each of them to be fully and particularly answered by each witness :

First cross-interrogatory. What is your age? Where is your place of residence at the time you are now examined? What is your present occupation or vocation?

Second. Are you the legal keepers or depositaries of the several paper writings presented and shown to you by the plaintiffs, purporting to be copies of documents in the archives of the State of Tamaulipas, as stated in the second interrogatory by plaintiffs?

Third. Are you the secretary of state of the State of Tamaulipas, in the republic of Mexico?

Fourth. In all the answers you have given to the interrogatories of the plaintiffs, are the facts stated of your own particular knowledge, or are they all, or some of them, derived from the information you have received from the plaintiffs or other persons?

R. GARLAND,

Solicitor for Shannon and Fitzpatrick.

JOHNSON & SWETT,

Solicitors for the other defendants.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }

CHARLES STILLMAN and others. }

In Chancery.

The defendants, Patrick C. Shannon and Richard Fitzpatrick, reserving to themselves all legal objections to the testimony sought to be procured by the interrogatories of the plaintiffs, the competency of the witnesses, the admissibility of their evidence, the form and effect of the interrogatories, the manner of issuing the letter rogatory, and the manner of executing the same, as well as all other objections and exceptions which can be taken, and particularly objecting to any papers or documents of any kind being exhibited to the witnesses upon their examination which have not been filed as exhibits in the cause, or filed with the interrogatories, now propound the following cross-interrogatories to the witnesses, requesting that they be fully and particularly answered by each witness :

First cross-interrogatory. If Don Bernardo Pedro Pablo Palaez was ever a notary public in the city of Matamoras, is there, or not, some written document or testimony to prove it now in existence, which the plaintiffs can procure by proper diligence and the use of ordinary efforts and means?

Second. If Don Juan Prado was ever the second constitutional alcalde in and for the city of Matamorrs, is there not written documents and proofs of that fact in existence, which the plaintiffs can obtain and procure by the use of proper means and diligence?

R. GARLAND,

*Solicitor and attorney for Patrick C. Shannon
and Richard Fitzpatrick.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

In Chancery.

The defendants, Patrick C. Shannon and Richard Fitzpatrick, reserving to themselves all objections to the testimony sought to be procured by the interrogatories of the plaintiffs, the competency of the witnesses, the form and effect of the questions, the manner of issuing the letter rogatory, and the manner of executing the same, as well as all other objections and exceptions which can be taken, and particularly objecting to any papers or documents of any kind being exhibited to the witnesses on their examination which have not been filed as exhibits in the cause, or filed with the interrogatories, now propound the following cross-interrogatories to the witnesses, requesting they be fully and particularly answered by each witness:

First cross-interrogatory. If you know the plaintiffs, how long have you known each of them, and where? And also how long have you known the defendants, or any of them, and where?

Second. Where is your place of residence at this time? How old are you, and what pursuit or avocation do you follow to make a living?

Third. What relationship exists between you and each of the plaintiffs and defendants? Is it by consanguinity or affinity, and what are the degrees of relationship with each party?

Fourth. What is the distance from your place of residence to the city of Matamoras?

Fifth. Have you not known of many other persons other than the plaintiffs who have, for many years past, had open and quiet possession of many parts or pieces of the tract of land called "El Potrero del Esperitu Santo?"

Sixth. Are the answers which you have given to the interrogatories of the plaintiffs founded upon your knowledge and personal views, or are said answers based in many respects upon the information you have derived from the plaintiffs or other persons, or what has been told to you?

Seventh. At whose instance and request have you presented yourself as a witness? And what compensation, in money or other things, are you to have for giving your answers to the interrogatories of the plaintiffs?

R. GARLAND,
Solicitor for Shannon and Fitzpatrick.
 JOHNSON & SWETT,
Solicitors for the other defendants.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
 CHARLES STILLMAN and others.

In Chancery.

The defendants, Patrick C. Shannon and Richard Fitzpatrick, reserving to themselves all legal objections to the testimony sought to be procured by the interrogatories of the plaintiffs, the competency of the witnesses, the admissibility of their evidence, the form and effect of the interrogatories, the manner of issuing the letter rogatory, and the manner of executing the same, as well as all other objections and exceptions which can be taken, and particularly objecting to any papers or documents of any kind being exhibited to the witnesses on their examination which have not been filed with the interrogatories, now propound the following cross-interrogatories to the witness, requesting they be fully and particularly answered by each witness :

First interrogatory. What is your age and avocation, and where is your residence at this time ?

Second. Are you acquainted with the parties to this suit ? If you answer yes, how long have you known each of them ?

Do you not know a large portion of the tract of land referred to in the interrogatories of plaintiffs has been occupied and possessed for many years by various persons, not holding or claiming under the plaintiffs, but in opposition to them ? If yes, be pleased to name the persons and the number of years, as nearly as you can recollect.

Fourth. Do you, or not, know that for twenty years past the legal authorities of the city of Matamoras have openly claimed and possessed, in their own right, and that of various individuals under them, the right and possession of a large portion of the aforesaid tract of land, without interruption or claim from the plaintiffs ? If yes, state the names of the different persons who used and occupied said land.

Fifth. At whose instance and request have you come here to answer the questions of plaintiffs ? And how much have you received or are you to receive from them, or some one of them, in money or some other thing, for giving your evidence in this case ?

R. GARLAND,

Solicitor and attorney for defendants, Shannon and Fitzpatrick.

JOHNSON & SWETT,

Solicitors for the other defendants.

DISTRICT COURT OF THE UNITED STATES, *District of Texas.*

RAFAEL GARCIA CAVAZOS and others }
vs. }
 CHARLES STILLMAN and others.

In chancery.

The defendants, Patrick C. Shannon and Richard Fitzpatrick, reserving to themselves all legal objections to the testimony sought to

be produced by the interrogatories of plaintiffs, the competency of the witnesses, the admissibility of their evidence, the form and effect of the interrogatories, the manner of issuing the letter rogatory, and the manner of executing the same, as well as all other objections and exceptions which can be taken, and particularly objecting to any papers or documents of any kind being exhibited to the witnesses on their examination, which have not been filed as exhibits in the cause, or filed with the interrogatories, now propound the following cross-interrogatories to the witnesses, requesting they be fully and particularly answered by each witness:

First cross-interrogatory. Are there, or not, in existence certain written documents or papers which the plaintiffs can procure which will more fully prove and show the official capacity you act in?

Second. Are you the legal and proper keeper of the archives, documents, and papers, the copies of which you are required to prove by the plaintiffs.

R. GARLAND,

Solicitor for Shannon and Fitzpatrick.

JOHNSON & SWETT,

Solicitors for the other defendants.

And afterwards, to wit, on the tenth day of October of the same year, letters rogatory issued from the clerk's office of our said court to the tribunals of the city of Victoria, Camargo, and Matamoras, in the State of Tamaulipas, which are as follows—that is to say :

Á Ciudad de Victoria.

(To take the deposition of D. Juan Nepomuceno Malano.)

UNITED STATES OF AMERICA, *District of Texas, ss.*

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Victoria, or in the State of Tamaulipas, in the United Mexican States, greeting :

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela [or de los Angeles] Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, and it has been suggested to us that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs

to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, to the **second* interrogatories and cross-interrogatories hereunto annexed, and that you will cause their depositions to be committed to writing, and delivered under cover duly closed and sealed up, together with the said interrogatories, and these presents, to the person who may present this letter, in order that he may bring them to our said court, and we shall always be ready and willing to do the same for you in a similar case when required.

Witness the honorable John C. Watrous, judge of the district court of the United States of America for the district of Texas, at the city of Galveston, on the tenth day of October, in the year one thousand eight hundred and forty-nine.

[L. S.]

JAMES LOVE, *Clerk.*

[Accompanying interrogatories to D. Jesus Cardenas, D. Ramon F. Valdez, Licenciado D. José Nunez de Carceres, and D. Eleno de Vargas.]

UNITED STATES OF AMERICA, *District of Texas, ss.*

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Victoria, or in the State of Tamaulipas, in the United Mexican States, greeting :

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles, Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, and it has been suggested to us that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, on the several interrogatories and cross-interrogatories hereunto annexed, and that you will cause their depositions to be committed to writing, and delivered under cover duly closed and sealed up, together with the said interrogatories and these presents, to the person who may present this letter, in order that he may bring them to our said court and we shall

²Reads "several" in all other letters rogatory.

JAMES LOVE, *Clerk.*

always be ready and willing to do the same for you in a similar case when required.

Witness the honorable John C. Watrous, judge of the district court of the United States of America for the district of Texas, at the city of Galveston, on the tenth day of October, in the year one thousand eight hundred and forty-nine.

[L. S.]

JAMES LOVE, *Clerk.*

[Accompanying interrogatories to Doctor Ramon F. Valdez y Don Rufino Rodriguez.]

UNITED STATES OF AMERICA,
District of Texas.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Victoria, or in the State of Tamaulipas, in the United Mexican States, greeting :

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela [or de los Angeles] Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, and it has been suggested to us that there are witnesses residing in your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, to the several interrogatories and cross-interrogatories hereunto annexed, and that you will cause their depositions to be committed to writing and delivered under cover duly closed and sealed up, together with the said interrogatories and these presents, to the person who may present this letter, in order that he may bring them to our said court, and we shall always be ready and willing to do the same for you in a similar case when required.

Witness the honorable John C. Watrous, judge of the district court of the United States of America for the district of Texas, at the city of Galveston, on the tenth day of October, in the year one thousand eight hundred and forty-nine.

[L. S.]

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA,
District of Texas, ss.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Victoria, or in the State of Tamaulipas, in the United Mexican States, greeting:

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, and it has been suggested that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties:

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, to the several interrogatories and cross-interrogatories hereunto annexed, and that you will cause their depositions to be committed to writing, and delivered under cover duly closed and sealed up, together with the said interrogatories and these presents, to the person who may present this letter, in order that he may bring them to our said court, and we shall always be ready and willing to do the same for you in a similar case when required.

Witness the honorable John C. Watrous, judge of the district court of the United States of America for the district of Texas, at the city of Galveston, on the tenth day of October, in the year of our Lord one thousand eight hundred and forty-nine.

[L. S.]

JAMES LOVE,
Clerk.

UNITED STATES OF AMERICA,
District of Texas.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Camargo, or in the State of Tamaulipas, in the United Mexican States, greeting:

Whereas a certain suit is depending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina, are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria

Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, and it has been suggested that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs, to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, to the several interrogatories and cross-interrogatories hereunto annexed, and that you will cause their depositions to be committed to writing, and delivered under cover duly closed and sealed up, together with the said interrogatories and these presents, to the person who may present this letter in order that he may bring them to our said court, and we shall always be ready and willing to do the same for you in a similar case, when required.

Witness the Hon. John C. Watrous, judge of the district court of the United States of America for the district of Texas, on [SEAL.] the tenth day of October, in the year one thousand eight hundred and forty-nine.

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA,

District of Texas, ss.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Matamoros, or in the State of Tamaulipas, in the United Mexican States, greeting :

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, it has been suggested to us that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oath, to the several interrogatories and cross-interrogatories hereto annexed, and that you will cause their depositions to be committed to writing, and delivered under cover duly closed and sealed up, together with the said interrogatories and these presents, to the person that may present this letter, in order that he may bring them to our said court, and we

shall always be ready and willing to do the same for you in a similar case, when required.

Witness the Hon. John C. Watrous, judge of the district court of the United States of America for the district of Texas, at the city of Galveston, on the tenth day of October, in the year one thousand eight hundred and forty-nine.

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA,
District of Texas, ss.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Matamoras, or in the State of Tamaulipas, in the United Mexican States, greeting :

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarnava, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, and it has been suggested to us that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, ——— as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, to the several interrogatories and cross-interrogatories hereunto annexed, and that you will cause their depositions to be committed to writing, and delivered under cover duly closed and sealed up, together with the said interrogatories and these presents, to the person who may present this letter, in order that he may bring them to our said court, and we shall always be ready and willing to do the same for you in a similar case when required.

Witness the Honorable John C. Watrous, judge of the district court of the United States of America for the district of Texas, at the city of Galveston, on the tenth day of October, in the year one thousand eight hundred and forty-nine.

[L. S.]

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA,
District of Texas, ss.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Matamoras, or in the State of Tamaulipas, in the United Mexican States, greeting :

Whereas a certain suit is pending in our district court for the

district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieta are defendants, and it has been suggested to us that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, to the several interrogatories and cross-interrogatories hereunto annexed, and that you will cause these depositions to be committed to writing, and delivered under cover duly closed and sealed up, together with the said interrogatories and these presents, to the person who may present this letter, in order that he may bring them to our said court, and we shall always be ready to do the same for you in a similar case when required.

Witness the honorable John C. Watrous, judge of the district court of the United States of America for the district of Texas, at the city of Galveston, on the 10th day of October, in the year one thousand eight hundred and forty-nine.

[L. S.]

JAMES LOVE, *Clerk.*

And afterwards, to wit, on the fifth day of November of the same year, came Patrick C. Shannon, one of the defendants herein, by attorney, and filed his answer, which is in the words and figures following—that is to say :

Answer of Patrick C. Shannon.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

DON RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others.

In Chancery.

The separate answer of Patrick C. Shannon, a resident of the county of Cameron, in the State and district of Texas, defendant, to the bill and amended bill of complaint of Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, now a widow, pending in this honorable court.

This defendant, now and at all times hereafter, saving and reserving unto himself all the benefit and advantage of exception which can or

may be had or taken to the many errors, uncertainties, and other imperfections in the said complainants' original and amended bill of complaint, for answer thereunto, or unto so much and such parts thereof as this defendant is advised is or are material or necessary for him to make answer unto, this defendant answering, saith :

That, protesting against, confessing, or acknowledging all or any of the matters or things in the said complainants' bill or amended bill of complaint to be true, in manner and form as the same are therein and thereby set forth and alleged, saith : That it appears of the complainants' own showing, in his said bill and amended bill of complaint, that the claim or pretended title to the whole of the tract of land and premises in question in the bill and amended bill mentioned, under what is alleged to be a perfect and legal title, emanating from the authorities, tribunals, and officers of the king of Spain, whilst exercising power, jurisdiction, and authority over the vice-royalty of Mexico, before the establishment of the present republic of Mexico, and under certain mesne conveyances and rights, acquired by descent, which are in said bill and amended bill of complaint set forth and mentioned, which is a matter merely triable at law, and touching which the complainants may sufficiently ascertain their title, by an action to be brought at law, in the manner and form prescribed by law : wherefore and forasmuch as the complainants' said bill and amended bill of complaint do not contain (as this defendant is advised) any matter of equity sufficient to establish any right or demand against this defendant, or to draw him in suit in this honorable court, touching the matters complained of in said bill and amended bill of complaint ; that they (complainants) are citizens and subjects of the State of Tamaulipas and republic of Mexico, and aliens to the United States of America and to the late republic and now State of Texas, and now reside in a foreign nation, and owe no allegiance to the United States of America or to the State of Texas, and that it is admitted in the said bill and amended bill of complaint that the land and premises claimed are situated on the eastern side of the Rio Grande, within the limits of the late republic of Texas, and now State of Texas, and as it is alleged that the title and claim to said land and premises under which complainants pretend to claim did not emanate directly from the authorities of the late republic of Texas, or present State of Texas, but from another and foreign government and nation, to wit, the king of Spain, either to the present complainants or those under whom they pretend to claim and hold : this defendant is advised said claimants cannot, under the constitution and laws of the late republic of Texas, and the constitution and laws of the present State of Texas, hold or possess lands within the limits of the State of Texas, nor can they draw him in suit in this court touching the matters in the said bill and amended bill of complaint ; and, also, for many other errors and imperfections in the complainants' said bill and amended bill of complaint contained, this defendant doth demur in law thereto, and says he is not liable to answer further in the premises, and thereon craves the judgment of the court, and that the said bill and amended bill be hence dismissed with costs.

And this defendant, now answering according to the best of his knowledge, remembrance, information, and belief, the several interrogatories in complainants' bill set forth, says to interrogatory first: That it is not true that he has obtained from the ayuntamiento of Matamoras any grant or claim to any portion of the tract of land described in the bill, nor does he believe any other of the defendants have obtained any such grant or claim; if any one of them have, this defendant is ignorant of the same. This defendant admits that he has purchased a tract of land containing about fifty-two or three acres, situated on the eastern bank of the Rio Grande, alias Rio Bravo del Norte, opposite to Fort Parados and the city of Matamoras, on which the town of Freeport now stands. Said labor or tract of land was ceded or granted by the said ayuntamiento, of the city of Matamoras, to Nicholas Cavazos, sometimes called Nicolas José Cabazos, in fee simple, in the usual form of such titles, who owned, possessed, and cultivated the same for many years, as will more fully and at large appear by reference to said grant or concession, a duly proved and certified copy of which will, with the leave of the court, be hereafter filed, and be marked Exhibit A. This defendant purchased said tract of land on the 13th day of the month of April, A. D. 1848, for the sum of six hundred dollars cash in hand paid, as will be made appear by reference to the deed of said Cavazos, on record in the office of the clerk of the court of Cameron county, State of Texas, in which county said land is situated, as will be made appear by reference to said deed and certificate of recording, hereafter, with leave of the court, to be filed and called Exhibit B. This defendant has, ever since the date of the aforesaid deed, claimed title to the aforesaid tract of land, and still does claim title to and possess the same, with the exception of portions thereof which he has sold to other persons. This defendant does not possess such information and knowledge, as to the claims under which his confederates allege title to the land they claim to own, as will enable him to speak with any certainty, except that he knows his co-defendant, Richard Fitzpatrick, did set up title to a portion of a lot of ground in the town of Freeport, by virtue of a conveyance or deed from this defendant to said Fitzpatrick. The lot is of small value, and this defendant is informed and believes said Fitzpatrick has sold the same. This defendant has no knowledge or information that his co-defendant Fitzpatrick has ever set up any right or claim to any portion of the land described in the complainants' bill other than is herein set forth and stated.

And this defendant, answering further, saith, in answer to the second interrogatory of complainants: That it is true that this defendant has purchased and procured in his own right two headright certificates, issued under the authority of the republic and State of Texas, which he has caused to be located on portions of the land described in the complainants' bill. One of these certificates was issued to Teirdonia Samora by the board of land commissioners for Nueces county, on the 19th of January, A. D. 1848, No. 34, for three hundred and twenty acres of land, and was by said Samora sold and transferred by deed dated the 20th day of January, A. D. 1848, to Fred-

erick Belden, of the county of Nueces, who, by his attorney in fact, Rice Garland, sold and transferred said certificate, with all the rights and privileges thereunto appertaining, to this defendant, as will appear by deed duly recorded in the office of the county clerk of Cameron county. The aforesaid certificate of headright, together with the aforesaid deed from Samora to Frederick Belden, are now on file in the office of the surveyor for the district of San Patricio, at Corpus Christi, together with the application of this defendant to said surveyor to locate said certificate, which application is dated on or about the twenty-fifth day of the month of April, A. D. 1848, and is of record in said office. A survey was made in compliance with the said location on the — day of —, A. D. 1848, but the field notes thereof have not yet, according to this defendant's knowledge and belief, been returned to the office of the district surveyor. The location claims to have this certificate so surveyed as to cover all of the land spoken of in this defendant's answer to the first interrogatory, and as much adjoining as will make the quantity of three hundred and twenty acres. This defendant cannot, without the field notes of the survey, specify the courses and distances accurately; but the portion of land it covers is on the eastern bank of the Rio Grande, in the county of Cameron, opposite the city of Matamoras, and the survey includes the whole of the town of Freeport, and a portion of the town of Brownsville, and the land between the two places. All of which will more fully and at large appear by reference to the aforesaid certificate to Samora, the conveyance made by him to Frederick Belden, the power of attorney from said Belden to Rice Garland, the location made of the aforesaid claim in the surveyor's office at Corpus Christi, and the field notes of the surveyor when returned; all of which, with leave of the court, will hereafter be filed and marked Exhibits —. The other certificate of headright purchased by this defendant was granted to — Cunningham by the board of land commissioners in and for the county of Galveston, is dated the — day of the month of —, in the year —, for the quantity of three hundred and twenty acres, and was sold and transferred to this defendant by said Cunningham, by his agent and attorney in fact, Rice Garland, by deed dated the — day of the month of —, in the year —, which is of record in the office of the clerk of the county court of Cameron, Texas. This defendant made application to the surveyor of the district of San Patricio, on the — day of the month of —, A. D. —, to locate this certificate on the eastern bank of the Rio Grande, in the county of Nueces, now county of Cameron, State of Texas, about — miles below Fort Brown, to have such front on the river as allowed by law, and to run back for the quantity of three hundred and twenty acres. The land was surveyed by George Lyon, a deputy surveyor for the district of San Patricio, on the — day of the month of —, A. D. —, and the field notes of the survey returned to and approved by Jacob Smiley, surveyor for the district of San Patricio, in the State of Texas, all of which will more fully and at large appear by reference to the aforesaid certificate to said Cunningham, his power of attorney to the aforesaid Rice Garland, and the

deed executed to this defendant, with the certificates of recording on said documents, the location and field notes of survey mentioned herein, all of which will, with leave of the court, be hereafter filed and marked Exhibits ———.

This deponent further saith: That on the eighth day of the month of April, in the year 1847, he and one Salisbury Haly, now believed to reside in California, purchased, by a deed of record in the office of the county clerk of Cameron county, as will appear, from William Ayers, the certificate No. 224, granted by the board of land commissioners for Brazoria county, Texas, a headright in the name of Felix C. Catamet, dated on the 1st day of February, A. D. 1838, for one-third of a league of land, equal to fourteen hundred and seventy-six acres. Said William Ayers had purchased said certificate previously of said Catonet. This certificate belongs to this defendant and the aforesaid Salisbury Haley jointly, each owning an undivided half. On the day of the month of , A. D. , said Haley and this defendant made application to the surveyor of the district of San Patricio to locate the quantity of land named in two tracts, one to front on the Rio Grande on the eastern bank, to contain the quantity of seven hundred and thirty-eight acres, with such front as the law allowed, and to run back for quantity; to adjoin on the upper side a location and survey previously made for one J. Baxter, and to be situated about two and a half miles above Fort Brown. Said location and survey was made on the day of , in the year , by George Lyon, a legally authorized deputy surveyor for the district of San Patricio, and the field notes of the survey returned to the office in Corpus Christi. The remainder of the land specified in the aforesaid certificate No. 224, the aforesaid Salisbury Haley and this defendant had located and surveyed in the manner directed by law, by the aforesaid George Lyon, deputy surveyor, acting under the orders of Jacob Smiley, surveyor of the district of San Patricio, with the front allowed by law, and such depth as would make the quantity specified, on the Rio Grande, or Rio Bravo del Norte, about fifteen miles below Fort Brown, adjoining to a survey made by — Newcomb, all of which will more fully and at large appear by reference to said certificate No. 224, and the conveyances and deeds by which this defendant and said Haley acquired all the rights of Felix C. Catamet, with the certificates of recording; and the aforesaid location and survey, with certificates of recording, all of which, with leave of the court, will hereafter be filed, and made exhibits .

This defendant saith: That by virtue of the aforesaid described titles, and that set forth in his answer to the first interrogatory, he does set up title and claim to the parcels and tracts of land herein set forth and described, and the same are situated within the limits described in the bill of complainants; this defendant has no knowledge of his co-defendant, Richard Fitzpatrick, ever having purchased any headright certificates, bounty land warrants, or treasury scrip, under and by virtue of which he sets up any title or color of title to any portion of the land described in the bill. This defendant has no information of his own which can enable him to state under what

titles and claims his co-defendants, Stillman, Belden, and Mussina, set up claim to portions of the land described in the bill of complaint, and cannot answer this interrogatory further.

And this defendant, further answering to the third interrogatory of complainants, for answer saith: It is true that he claims right and title to take possession of and hold the tracts and parcels of land described in his answers to the first and second interrogatories of complainants, and in virtue of the titles stated and set forth in said answers, that he does claim the right to sell, lease, or otherwise dispose of the said lands, to give titles or bonds for titles therefor, also to receive sums of money for the sale or lease of the same. The right and title of the defendant under which he claims so to do, is set forth and stated, in part, in his answers to the first and second interrogatories; and in virtue of this further right, the ayuntamiento of Matamoras, or the authorities of that city, or those claiming under them, have been for more than twenty years in actual adverse possession of a large tract of land situated on the east bank of the Rio Grande, extending up and down the river opposite to Matamoras, and running back a considerable distance therefrom. That such adverse possession was well known to complainants, who acquiesced in it. That said complainants have not for more than twenty years been in possession of any portion of the lands claimed by the authorities of the city of Matamoras, above mentioned, except that one of them, viz., Rafael Garcia Cavazos, has possessed a labor, or small tract of land, which he holds as a tenant or grantee of the aforesaid ayuntamiento of Matamoras, which labor in no way interferes with this defendant's rights and claims, as set forth. The land formerly held and possessed by the ayuntamiento of the city of Matamoras, defendant is informed and believes, includes all the land claimed by him, except the two tracts situated on the eastern bank of the Rio Grande below Fort Brown, as stated in the answer to the third interrogatory; his title to these tracts of land are set forth in his aforesaid answer.

And this defendant, further answering, saith, in answer to the fourth interrogatory, that this defendant has not, up to this time, *has not* set up a claim to lay out into lots a portion of the land he claims for the purpose of establishing a town thereon to be called Brownsville, and of selling such lots, and receiving money therefor. He has not given out that he will make titles, or give bonds for titles to lots in said town, or receive payment therefor. He has never received any rent for the site of Fort Brown, nor does he know of any person who has received such rent, or has made any contract to receive the same. This defendant has no right or claim to the land on which Fort Brown stands, and never has had any claim thereto.

This defendant, further answering, saith, in answer to the fifth interrogatory, that it is true he has made such use of the public officers of the State of Texas, and the records of the counties of Nueces and Cameron, as were legal and proper for making his claims, grants, and titles notorious and available to himself, and secure his rights.

This defendant, further answering to complainants' bill, says, he knows nothing, of his own knowledge, of the genuineness or validity

of the grant stated in the bill as being made to Don José Salvador de la Garza, on the 18th of July, in the year 1781, or of the power and authority of the persons who were instrumental and acted in the procurement and issuing of said grant as stated in the bill. The defendant knows nothing of the persons named in the bill, as being legal and competent officers of the king of Spain, to make such a grant as is stated, and he requires strict proof of the same.

And this defendant, further answering, saith, that he is advised and alleges, that on the 18th day of the month of July, in the year of our Lord 1781, the Spanish province of Louisiana extended of right to the Rio Grande or Rio Bravo del Norte, which province of Louisiana never formed any part or portion of the viceroyalty of Mexico, but had a separate and distinct government with public officers of its own, who, under certain restrictions and regulations, had authority to grant lands to individuals, but the officers administering the government in Mexico had no jurisdiction or right to grant lands in the province of Louisiana.

This defendant, further answering, saith, that he knows nothing, of his own knowledge, of the relations of consanguinity and affinity alleged in the bill to exist, or have existed, between the parties named in the bill and the complainants, nor of their being the heirs or legal representatives of Don José Salvador de la Garza, or any other person named in said bill of complaint, and does not admit these allegations of complainants to be true, but requires rigid and exact proof of the same, and of all the other allegations relating to heirship, among those who claim as just tenants or tenants in common of the said land and premises.

This defendant, further answering, saith, that by certain legal proceedings had and carried on by and before the competent authorities in the State or department of Tamaulipas, in the republic of Mexico, at the instance of or in behalf of the ayuntamiento of the city of Matamoras, or the municipal authorities of that city, this defendant is advised and believes, and so alleges, that a large portion of the tract of land claimed in the bill of complaint was set apart, appropriated, and granted, to the aforesaid ayuntamiento of the city of Matamoras, or to that city itself, in full property, for such uses and purposes as the said ayuntamiento should deem useful and proper; and of these proceedings the complainants, or those under whom they claim, had notice; and said ayuntamiento or corporation of Matamoras went into possession of said tract of land more than twenty years past, openly and notoriously, and have since exercised over the same various and many acts of possession and ownership, in all which the complainants have acquiesced, and one of them, to wit, Rafael Garcia Cavazos, has, as defendant is advised and alleges, actually made application to the aforesaid ayuntamiento of the city of Matamoras, and obtained or had a grant of a *labor* or parcel of land, the quantity unknown to this defendant, which grant said Cavazos has accepted and now claims title to and possession of said *labor* or parcel of land. This defendant says that he has not yet been able to procure the record and proceedings of the aforesaid legal tribunals

and authorities of the State or department of Tamaulipas and republic of Mexico, by which the said tract of land and premises were appropriated and granted to the ayuntamiento of the city of Matamoras, or to said city itself, nor has he yet been able to procure a copy of the documents and papers relating to the grant of land to Rafael Garcia Cavazos, as above stated, but defendant begs leave to reserve the right of amending this answer, and, when said documents and papers are procured, to state and set them forth with proper and legal comments.

And the defendant further answers and saith, that he especially pleads to the bill of complainants the statute of limitations, and all and singular the facts set forth and alleged in this his answer to said bill, and will insist upon each and all of said facts and the conclusions of law and equity deducible therefrom in his defence, and says that the action, suit, and demand of the complainants, as in their bill stated, is entirely barred, and should be hence dismissed with costs.

This defendant, further answering, saith, that at the time he purchased of Nicolas José Cavazos, or Nicolas Cavazos as he is and was sometimes known and called, the title as before described to the tract or parcel of land on which the town of Freeport was subsequently laid out and located, that said purchase, which is more fully described in his answers to the interrogatories in the bill of complainants, was made in good faith and under a full conviction that it vested title in him a good and legal title to said land and premises, and that the purchases, improvements, and expenditures made in and about the town of Freeport, or elsewhere, on the said tract of land, were so made by this respondent under such conviction and belief that he had a perfect and just right to do so, and that the legal title to said land belonged to this defendant by virtue of said purchase by him made. And in case the court shall adjudge otherwise, this defendant claims and prays the benefit to which he is entitled in law and equity for improvements made and money expended under the circumstances herein stated.

And this defendant denies all manner of fraud, unlawful combination and confederacy, wherewith he is by said bill charged; without this that there is any other matter, cause, or thing in the said bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed and avoided or denied, is true to the knowledge or belief of this defendant; all of which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall direct, and humbly prays to be hence dismissed with his costs and charges in this behalf most wrongfully sustained.

PATRICK C. SHANNON.

THE UNITED STATES OF AMERICA,

District of Texas, ss.

Personally appeared before the undersigned commissioner of affidavits and bail, appointed by the district court of the United States in

and for the district of Texas, exercising its powers as a circuit court, Patrick C. Shannon, the respondent in the aforesaid answer, to me personally known, who, being duly sworn according to law, says that the said answer has been carefully read to him, and that all the facts and statements set out therein as of his own knowledge are true, and those set out as upon the information of others he believes to be true in substance and fact.

PATRICK C. SHANNON.

Sworn and subscribed to, at Brownsville, in the county of Cameron, this 30th day of the month of October, A. D. 1849, before me.

EDM'D J. DAVIS, *Commissioner*.

And afterwards, to wit, on the fourteenth day of December of the same year, the court here made an order in this cause, which is in the words following, that is to say:

Order of Court.

RAFAEL GARCIA CAVAZOS and others

vs.

CHARLES STILLMAN and others.

} Continued.

And afterwards, to wit, on the seventh day of January, in the year of our Lord one thousand eight hundred and fifty, the plaintiffs herein filed their replication to the answer of Patrick C. Shannon, which said replication is in the words following, that is to say:

Replication.

DISTRICT COURT OF THE UNITED STATES,

District of Texas.

In Chancery.

The replication of Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, complainants, to the answer of Patrick C. Shannon, defendant.

These repliants, saving and reserving to themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say that they will aver, maintain, and prove their said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is untrue, and insufficient to be replied unto by these repliants; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed or avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove, as this honorable court shall direct, and humbly pray as in and by their said bill they have already prayed.

EBN. ALLEN & WM. G. HALE,

Solicitors for Complainants.

JANUARY 7, 1850.

And afterwards, to wit, on the twenty-fourth day of January of the same year, security for costs herein was given by the complainants in the following words and figures, that is to say :

Surety for Costs.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS *et al.* }
vs. }
CHARLES STILLMAN *et al.* }

I acknowledge myself security for the costs which the said plaintiffs may be ordered to pay in this cause.

H. B. MARTIN.

And afterwards, to wit, on the same day and year, the court here made an order in this cause, which is in the words and figures following, that is to say :

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

The plaintiffs' attorney this day filed a paper, signed by H. B. Martin, in which he acknowledged himself security for the plaintiffs for the costs in this suit, and which is ordered to be filed among the papers in this cause.

And afterwards, to wit, on the twenty-ninth day of January of the same year, the court here made an order in this cause, which is in the words and figures following, that is to say :

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

Continued until the second Monday in May next.

And afterwards, to wit, on the fourth day of February of the same year, the complainants, by their counsel, filed a motion herein, which is in the words following, that is to say :

Motion.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others.

Ebenezer Allen and William G. Hale, of counsel for the complainants in the above entitled cause, suggesting to the court the necessity of the case, move this honorable court for leave to cause the package of depositions, returned to this court from the tribunal of the first instance of the town of Camargo, to be opened, and to take therefrom the documents therein contained, to wit, the copies of the testaments of Doña Gertudis de la Garza Falcón, and Don Blas Maria de la Garza, in order to procure the testimony of other witnesses to their execution.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Complainants.

And afterwards, to wit, on the fifth day of February of the same year, the court here made an order in this cause, which is in the words following, that is to say :

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others.

In this case it is ordered by the court, upon motion of the counsel for the complainants, that in the translation into Spanish of the form of a letter rogatory, entered upon the records of this court, the words "lo Estado" be changed into "El Estado," and the word "muger" into "esposa" in all future "letters rogatory" issued. And it is further ordered by the court, upon motion of the counsel for the complainants, and due notice given to the other parties therein, that the package of depositions returned to this court from the tribunal of the first instance of the town of Camargo be opened, and that the complainants have leave to withdraw therefrom the documents therein contained, for the purpose of obtaining the testimony of witnesses to their execution.

And afterwards, to wit, on the ninth day of February of the same year, the complainants herein filed several sets of interrogatories, which are in the words and figures following, that is to say :

Interrogatories to J. J. H. Grammont, George Lyon, and Juan Treanor.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. } 41
CHARLES STILLMAN and others.

Interrogatories to be propounded to J. J. H. Grammont, George Lyon, and Juan Treanor, witnesses to be produced, sworn and examined before the commissioner named for that purpose by the judge of the district court of the United States for the district of Texas, in the above entitled cause, on the part of the complainants.

Interrogatory first. [To all.] Do you know the parties in the said cause, to wit, Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Doña Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Doña Feliciano de Tigerina, and Josef Manuel Prieto, defendants, or any and which of them?

Interrogatory second. [To J. J. H. Grammont.] Are you acquainted with the handwriting of Thomas J. Stansbury? If so, is or is not the signature at the end of the documents now presented to you, marked AA, BB, CC, DD, EG, HH, KK, LL, and purporting to be copies from the records of the county of Cameron, his true and genuine signature? Is the said Stansbury living or dead?

Interrogatory third. What office did the said Stansbury hold at the time of signing said documents?

Interrogatory fourth. Is there, or not, a newspaper published in Cameron county by the name of the "American Flag," or "The American Flag and Cameron County and Matamoras Advertiser," or some other such name? If so, who has been the editor of such newspaper since August, 1848? And are or are not the copies of a newspaper now presented to you, marked 1, 2, 3, the copies and numbers actually issued of the newspaper before named? Is or is not the type, title, and appearance the same?

Interrogatory fifth. What newspaper or journal was published in the city of Matamoras in the year 1848-1849? Is or is not the number now presented to you, marked ZZ, one of the numbers of the said paper?

Interrogatory sixth. [To George Lyon.] What office do you hold in the county of Cameron? How long have you held it? Who has executed all the surveys made within the county since you filled that office?

Interrogatory seventh. Is there, or not, a dense thicket or "monte" some distance above the town site of Santa Rita? How far does ti

extend between the Arroyo Colorado and the Rio Grande, and in what direction?

Interrogatory eighth. Look at the documents now presented to you, marked *MM*, and purporting to be a copy of the field notes of a survey for P. C. Shannon. Is or is not the said copy a true copy of your field notes as returned? Annex also true copies of all surveys or locations made, within two leagues of the site of Brownsville, by you as deputy surveyor of the said county.

Interrogatory ninth. How far is Rancho Viejo from the town site of Brownsville, and in what direction? How far is the town site of Brownsville from the Rio Grande? How far is Fort Brown from the said town site?

Interrogatory tenth. [To Juan Treanor.] From where did you receive the original testimonio of title of D. José Salvador de la Garza to the Agostadero del Esperitu Santo? To whom did you deliver it, and for what purpose?

Interrogatory eleventh. [To all.] How long had Charles Stillman, Samuel A. Belden, and Patrick C. Shannon resided in Matamoras before removing to this side of the Rio Grande? What business had they been engaged in in Matamoras? When did they move their mercantile establishment to this side of the Rio Grande?

Interrogatory twelfth. Do you know anything else which may be a benefit or advantage to any of the parties at issue in this cause, or which may be material in this your examination? If so, set it forth at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

Interrogatories to Don Bartolo Treviño and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Bartolo Treviño, Callisto Portilla, Juan Portilla, Bernardiño Flores, Marcos Galindo, Victoriano Lopez, Manuel Lopez, Quinto de Juigosa, Juan Longoria y Lerna, Martias Garcia, Ignacio Cazares, and Juan Prado, witnesses to be produced, sworn, and examined before the judge or tribunal of the city of Matamoras, in the State of Tamaulipas, acting under the letter rogatory issued by the district court of the United States of America for the district of Texas, in a certain cause therein depending in chancery, between Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, as complainants, and Charles Stillman, Samuel A. Belden, Jacob Musina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Doña Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Don Ramon Safen, Doña Feliciano de Tigerina, and Don Josef Manuel Prieto, as defendants, on the part of the said complainants.

Interrogatory first. [To all.] Do you know the parties above named, or any and which of them?

Interrogatory second. [To all.] What is your age? Where do you reside? How long have you lived upon or near the Rio Grande?

To Bartolo Treviño, Calixte Portilla, Juan Portilla, and Bernardino Flores.

Interrogatory third. Do you know a certain tract of land lying on the left side of the Rio Grande and known as the Potrero or Agostadero del Esperitu Santo? If so, does or does not the land opposite to Matamoras, and for two leagues up and down the Rio Grande, from the present town site of Brownsville, lie within the said tract of land?

Interrogatory fourth. Were you, or not, acquainted with Don Blas Maria de la Garza? Did or did not he ever occupy the said land and keep his cattle thereon? And how many cattle or other stock?

Interrogatory fifth. Where did the said Don Blas Maria de la Garza, either according to your personal knowledge or to general reputation and tradition, erect and place his cattle-pens and hacals? At what rancho did he generally remain on the said land? How far was this rancho from the present town site of Brownsville, and in what direction?

Interrogatory sixth. How long is it since Doña Francisca Cavazos, wife of the said Don Blas Maria de la Garza, died? Did or did not she reside upon the said tract of land after the death of her husband, and at what place?

Interrogatory seventh. Where is the rancho at present occupied by the peons of Don Rafael Garcia Cavazos? Where is the labor upon the Rio Grande cultivated and used by him? How far are both from the present site of Brownsville?

Interrogatory eighth. Where is the rancho of Doña Estafana Gozeascochea? What other ranchos on the said tract of land are held by her or her children? Was she, or not, living on the said tract of land in December, 1848?

To Marcos Galindo.

Interrogatory ninth. Did you, or not, act as assisting witness for Don Nepomuceno Molano, when he was first alcalde of the ayuntamiento of Matamoras? If so, do you, or not, recollect a copy then made by order of the said alcalde of a testimonio of title granted to D. José Salvador de la Garza, for the Agostadero del Esperitu Santo, which copy was so made at the request of D. Juan Tigerina?

Interrogatory tenth. Do you recollect who presented the original testimonio of title issued to Don José Salvador de la Garza to the said alcalde, in order that it might be copied? Who was it? To whom was he then married?

Interrogatory eleventh. What was then the appearance of said testimonio of title? Did it, or not, bear marks of age; and if so, what marks?

To Victoriano Lopez, Manuel Lopez, Quinto de Inigos, á Juan Longoria y Lerna.

Interrogatory twelfth. Were you personally acquainted with D. José Salvador de la Garza? If so, where was his principal landed estate, and what was it named?

Interrogatory thirteenth. What opportunities or facilities did you have for knowing D. José Salvador de la Garza, and how long were you acquainted with him?

Interrogatory fourteenth. How was D. Salvador de la Garza respected and esteemed in the country? Was he, or not, a man of wealth and importance? What do you know showing that he was or was not so?

Interrogatory fifteenth. Where did he have his principal rancho? What was it then called? What is it now called? How far is it from the present town site of Brownsville?

Interrogatory sixteenth. What buildings, hacals, cattle-pens, fences, &c., did the said Don José Salvador de la Garza erect near this rancho? How many cattle, horses, mules, sheep, &c., did he have, and where did he keep them?

Interrogatory seventeenth. Do you know a tract of land on the left bank of the Rio Grande known by the name of El Potrero or Agostadero del Esperitu Santo? If so, where is it situated? How is it bounded on the north, south, and west? Who first discovered and made use of it? To whom was it granted?

Interrogatory eighteenth. What ranchos were placed or built on this tract of land, and by whom? Where was the rancho of San Juan del Retiro situated? Where was the rancho de los Indios? Where was Mezquite, Jarretada, Paro Viejo, San José, Palo Alto?

Interrogatory nineteenth. Who occupied and possessed this tract of land after the death of Don José Salvador de la Garza? Who occupied and possessed it after the death of his children?

Interrogatory twentieth. Were you personally acquainted with Don Blas Maria de la Garza, Doña Margarita de la Garza, and Doña Xaviera or Jabiera de la Garza? If so, whom did they marry, and what children did they have?

Interrogatory twenty-first. Where does Doña Estafana Gozeascochea reside? Is or is not her rancho on the said tract of land? Did she, or not, reside there in the month of December, 1848, and before? Who was the first husband of Doña Maria Angela Garcia, one of the defendants? What children had they living at his death?

To Matias Garcia, Ignacio Casares, Juan Longoria y Lerna.

Interrogatory twenty-second. Do you recollect ever to have seen the old testimonio of title for the Agostadero del Esperitu Santo, granted to D. José Salvador de la Garza? If so, where did you see it? In whose hands? And what was its appearance?

Interrogatory twenty-third. Do you recollect having been present at a survey made on the Agostadero del Esperitu Santo, in 1827 or

1828, for Rafael Garcia, Manuel de la Garza, and Ignacio Trevino? If so, did or did not Matias Garcia require that the said testimonio of title should be presented to him as alcalde? Who presented it? To whom was it returned?

Interrogatory twenty-fourth. Who has had possession of this testimonio of title since that time?

Interrogatory twenty-fifth. [To Juan Prado.] Look at the document now exhibited to you, marked *D*, and purporting to be an order made by you on March 7, 1836. Is the signature at the end thereof, purporting to be yours, yours in fact? And is the other signature the genuine signature of Pedro Pablo Palaez? What office did you and the said Palaez hold at that time?

Interrogatory twenty-sixth. What office do you now hold? Who was your predecessor in that office?

Interrogatory twenty-seventh. Look at the paper writing now presented to you and marked *X*, purporting to be a copy of articles 41 and 42 of an ordinance of the ayuntamiento of the city of Matamoras, published on the 2d June, 1834. Does this paper contain a true copy of the said articles of the said ordinance or not? If not, annex a true copy thereof. Is or is not the signature at the end of the said paper the true signature of D. Andres Trevino?

Interrogatory twenty-eighth, and last. [To all.] Do you know anything else which may be a benefit or advantage to any of the parties at issue in this cause, or material in this your examination? If yea, set it forth fully and at large in your answer.

ALLEN & HALE,

Of Counsel for Complainants.

Interrogatories to be propounded to Don Nicolas Garcia and others.

DISTRICT COURT OF THE UNITED STATES,

District of Texas.

In Chancery.

Interrogatories to be propounded to Don Nicolas Garcia, D. Manuel de la Chapa, D. José Antonio Garza Falcon, and Don Juan Manuel Ramires, witnesses to be produced, sworn, and examined before the judge or tribunal of the town of Camargo and State of Tamaulipas, acting under the letter rogatory issued from the district court of the United States for the district of Texas, in a certain cause in chancery now pending in the said court, between D. Rafael Garcia Cavazos, and Doña Maria Josefa Cavazos, his wife, and Doña Estafana Goseascochea de Cortina, as complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, D. Manuel Prieto, Doña Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Don Ramon Safen, and Doña Feliciana de Tigerina, as defendants, on the part of the said complainants.

First interrogatory. [To all.] Do you know the parties above named, or any of them?

Second interrogatory. [To all.] What is your age, and where have you resided during your life?

Third interrogatory. [To D. Nicolas Garcia, Don Manuel de la Chapa, and D. José Antonio de la Garza Falcon, alone.] Were you acquainted personally with D. José Salvador de la Garza? How long were you acquainted with him, and what opportunities did you have for knowing him?

Fourth interrogatory. Where did D. José Salvador de la Garza generally reside? Is his residence or house still standing, and where is it situated? Of what size was it originally, and of what built?

Fifth interrogatory. Was or was not D. José Salvador de la Garza a man of wealth? How was he respected and considered in the country? What offices or posts in the army, or otherwise, did he hold? What was his standing and position at Camargo?

Sixth interrogatory. Who was the wife of D. José Salvador de la Garza? Who were their children?

Seventh interrogatory. Where did D. José Salvador de la Garza die, and when, so nearly as you can recollect? How long had he been married?

Eighth interrogatory. Do you know a tract of land on the left side of the Rio Grande, opposite to Matamoras, known as the Potrero or Agostadero del Esperitu Santo? If so, how long have you known it by that name? How long is it since you first were on this tract of land?

Ninth interrogatory. What are its peculiar natural advantages? Why is it called a Potrero? What were considered to be its boundaries in the time of Don José Salvador de la Garza?

Tenth interrogatory. Who was known as the owner of this tract of land when you first knew it. Who first discovered it and made use of it?

Eleventh interrogatory. Do you recollect any controversy between D. José Salvador de la Garza and D. José Narciso Cavazos respecting this tract of land? If so, what was its cause, and how was it concluded?

Twelfth interrogatory. At the time when you first knew this tract of land, were there, or not, any Indians in that part of the country? Was there, or not, any danger in residing upon the land? What instances or occasions of hostilities on the part of the Indians do you recollect?

Thirteenth interrogatory. Were there any Indians domesticated and living peaceably on the said tract of land when you first knew it? Who had placed them there, and what was the place where they lived called?

Fourteenth interrogatory. How many head of cattle, horses, mules, sheep, etc., had D. José Salvador de la Garza upon this tract of land? Where were his cattle-pens, hacals, and what were the names of his ranchos upon the said tract? How many persons or servants had he employed there?

Fifteenth interrogatory. How did he manage to keep his horses, cattle, etc., enclosed within the said tract of land?

Sixteenth interrogatory. To whom was D. Blas Maria de la Garza married? Did he die before or after D. José Salvador de la Garza?

Seventeenth interrogatory. To whom was Doña Marguerita de la Garza married? What children had she? Are her children still living?

Eighteenth interrogatory. To whom was Doña Jabiera, or Xaviera, de la Garza, married? What children had she? Are they living or dead?

Nineteenth interrogatory. Who, to your knowledge, have had possession of the said tract of land known as the Potrero, or Agostadero del Esperitu Santo, as owners and proprietors thereof, since the death of D. José Salvador de la Garza?

Twentieth interrogatory. To whom was the said tract of land first granted? Was the grant made in the time of the Spanish monarchy or by the State of Tamaulipas?

Twenty-first interrogatory. In what place on the said tract of land has Doña Estafana Goseascochea lived? Did she, or not, live there in the month of December, 1848?

Twenty-second interrogatory. [To Don Juan Manuel Ramires alone.] Do you know a certain tract of land known as the Potrero, or Agostadero del Esperitu Santo, on the left bank of the Rio Grande? If so, how long have you known it and its owners?

Twenty-third interrogatory. Who have had possession of it since you knew it? Who have been generally reputed and considered as its owners?

Twenty-fourth interrogatory. To whom, according to general reputation and belief, was the said tract first granted, and when?

Twenty-fifth interrogatory. What are the names of the several ranchos on the said tract of land, and by whom have they been occupied? How many cattle, horses, mules, etc., belonging to D. José Salvador de la Garza, or his heirs, have you known at any one time to be grazing or kept on the said tract, and when?

Twenty-sixth interrogatory. Did you know Doña Francisca Cavazos? To whom was she married? Did she, or not, after the death of her husband, reside upon the said tract of land, and where?

Twenty-seventh interrogatory. Do you recollect any dispute or controversy between the ayuntamiento of Matamoras and Doña Francisca Cavazos, relative to the portion of the said tract of land opposite to Matamoras? If so, what was the cause of such dispute or controversy? Did the said Doña Francisca ever acknowledge the claim of the said ayuntamiento to that portion of the land to be valid, or not?

Twenty-eighth interrogatory. Look at this paper writing now presented to you, marked *E*, and purporting to be a copy of the testament of Doña Maria Gertudis de la Garza Falcon. Is or is not the signature at the end thereof, purporting to be the signature of D. Santiago Dominguez, his true and genuine signature? What public office did the said D. Santiago Dominguez hold at the time of signing the same? And is or is not the said paper writing a true and legal copy of the original in the archives of Camargo?

Twenty-ninth and last interrogatory. [To all.] Do you know anything else which may be a benefit or advantage to any of the parties in this cause, or which may be material in this your examination? If yea, set it forth fully and at large in your answer.

ALLEN & HALE,

Of Counsel for Complainants.

Interrogatories to Don José Antonio Samora and others.

DISTRICT COURT OF THE UNITED STATES,

District of Texas.

Interrogatories to be propounded to D. José Antonio Samora, D. Marcos Gomez, D. Ciprio Munguia, D. Francisco Cantu, D. Romualdo Guerra, D. Manuel de la Viña, D. George Cavazos, D. Blas Maria Cavazos, D. Guadalupe Cavazos, D. Rafael Aleman, and Presb. Antonio de la Garza Rodriguez, witnesses to be produced, sworn, and examined before the judge or tribunal of the town of Reynosa, acting under the letter rogatory issued by the district court of the United States of America for the district of Texas, in a certain cause therein depending, in chancery, between D. Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, as complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Doña Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Don Ramon Safen, Doña Feliciano de Tigerina and Don Manuel Prieto, defendants, on the part of the said complainants.

Interrogatory first. [To all.] Do you know the parties above named, or any of them?

Interrogatory second. [To Don José Antonio Samora, D. Marcos Gomez, Don Ciprio Munguia, D. Francisco Cantu, and D. Romualdo Guerra, alone.] What is your age? How long have you lived near the Rio Grande, and where?

Interrogatory third. Were you, or not, personally acquainted with D. José Salvador de la Garza? How long were you acquainted with him? What opportunities did you have for knowing him?

Interrogatory fourth. Was or was not D. José Salvador de la Garza a man of wealth? How was he respected and considered in the country? When did he first establish himself on the Rio Grande, and where?

Interrogatory fifth. Who was the wife of the said D. José Salvador de la Garza? Who were their children? How long was he married before his death?

Interrogatory sixth. Do you know a tract of land on the left side of the Rio Grande known as the Potrero, or Agostadero del Esperitu Santo? If so, how long have you known it by that name?

Interrogatory seventh. Where is the said tract of land situated? What are its boundaries? Why is it called a Potrero?

Interrogatory eighth. Who first discovered and made use of this tract of land? Who was known as its owner when you first knew it?

Interrogatory ninth. Do you recollect any controversy between Don José Salvador de la Garza and D. José Narcisco Cavazos respecting this tract of land? If so, what was its cause, and how was it concluded?

Interrogatory tenth. How many head of cattle, horses, mules, sheep, etc., did D. José Salvador de la Garza and his heirs keep on the said tract of land? Where were the ranchos upon the said tract, and what were their names, so far as you can recollect?

Interrogatory eleventh. Were you personally acquainted with D. Blas Maria de la Garza? If so, of whom was he the son? Whom did he marry? Did he have any children living at his death?

Interrogatory twelfth. Where did D. Blas Maria de la Garza die? How was he considered and respected in the country?

Interrogatory thirteenth. Were you personally acquainted with Doña Francisca Cavazos? If so, how long did she live after the death of Don Blas Maria de la Garza? Did she, or not, live after his death on the Potrero del Esperitu Santo; and if so, where?

Interrogatory fourteenth. Were you, or not, acquainted with Doña Maria Ignacia Cavazos? If so, where did she reside before the death of Doña Francisca? What relation was she to Doña Francisca? To whom was she, Doña Ignacia, married, and what children did she have?

Interrogatory fifteenth. State the names of the persons, so far as you know, who have had possession of the Agostadero del Esperitu Santo, as owners and proprietors thereof, up to the present time.

Interrogatory sixteenth. [To Manuel de la Viña and George Cavazos.] Look at the paper writing marked *F*, now presented to you and purporting to be a copy of the testament of D. Blas Maria de la Garza. Is J. Antonao Leal de Leon, whose name is signed thereto, living or dead? What office did he hold at the time of signing the said paper? Is or is not the signature thereto, purporting to be his, his true and genuine signature?

Interrogatory seventeenth. [To Don Manuel de la Viña, alone.] Is or is not the signature at the end of the said copy, purporting to be yours, yours in fact? If so, is or is not the said paper writing a true and legal copy of the original?

Interrogatory eighteenth. Were you, or not, acquainted with Doña Francisca Cavazos, and with Doña Maria Ignacia Cavazos? If so, what relationship existed between them?

Interrogatory nineteenth. In what tract of land on the left bank of the Rio Grande had Doña Francisca Cavazos an interest as owner? How far is the part of this tract of land occupied by Doña Francisca from the city of Matamoras?

Interrogatory twentieth. Do you recollect a controversy between Doña Francisca and the ayuntamiento of Matamoras, relative to a portion of this tract of land in front of the city of Matamoras? If so, what was the cause of it? Did Doña Francisca ever acknowledge the justice of the claim of the ayuntamiento?

Interrogatory twenty-first. [To Don Blas Maria Cavazos, Guade-

loupe Cavazos, and Rafael Aleman.] Look at the paper writing now presented to you, marked *F F*, and purporting to be a copy of the testament of D. Blas Maria de la Garza. Is or is not the signature at the end thereof, purporting to be yours, yours in fact? Is or is not the said paper writing a true and legal copy of the said testament? What office did D. Blas Maria Cavazos hold at the time of signing the same, and in virtue of what office did he sign it?

Interrogatory twenty-second. [To Presb. Antonio de la Garza Rodriguez.] Look at the paper writing now presented to you, marked *X X*, and purporting to be a copy of the entry of the marriage of D. Rafael Garcia Cavazos and Doña Maria Josefa Cavazos, in the register of the parish of Reynosa. Is or is not the signature at the end thereof your true signature? Is or is not the same a true and legal copy of the said entry taken from the archives under your charge, as priest of the town and jurisdiction of Reynosa?

Interrogatory twenty-third and last. [To all.] Do you know anything else which may be a benefit or advantage to the parties in this cause, or which may be of importance in this your examination? If yea, set it forth at large in your answer.

ALLEN & HALE,

Of Counsel for Complainants.

And afterwards, at the February rules of said court, during the same year, the following rule was taken, that is to say :

Rule.

RAFAEL GARCIA CAVAZOS and others

vs.

CHARLES STILLMAN and others.

N. D. 41.

Ten days' notice having been given of the filing of interrogatories to witnesses in the county of Cameron, to wit, J. J. H. Grammont and others, and no cross-interrogatories having been filed, it is now hereby ordered, upon application of the counsel for complainants in the above entitled cause, that Augustus C. Allen be named as commissioner in chancery to take the depositions of the said witnesses, and that a commission issue to him accordingly. Sustained, February 27, 1856.

"WATROUS."

And afterwards, to wit, on the eighteenth day of February of the same year, the annulment of a power of attorney was filed herein, in the words and figures following, that is to say :

Annulment of power of attorney.

STATE OF TEXAS,

County of Cameron.

Know all men by these presents, that I, Antonio Longoria, citizen of the city of Matamoras, State of Tamaulipas, and republic of

Mexico, for divers good considerations have revoked, countermanded, annulled, and made void, and by these presents do revoke, countermand, annul, and make void, all powers of attorney, authorities of agency, and other writings, and all power and authority therein and thereby given and granted previous to the date of these presents by me, either for myself in my own right, or as agent and attorney of Angela Garcia de Tarneva, Felipa Garcia de Mananton, daughters of Rafael Garcia, deceased, and Gaudalupe Lesneros de las Cases, late widow of the said Rafael Garcia, deceased, and now the wife of Antonio Maria de las Cases, and Antonio Maria de las Cases, all citizens of the city and republic last aforesaid, or of each, either, or any of them, to Elisha Basse and Robert H. Hord, of the firm of Basse & Hord, of the city of Brownsville, county and State first aforesaid, as well those granted to said firm, as those given to other members of the same: Hereby revoking, countermanding, annulling, and making void all power and authority given by myself in my own right, or as attorney and agent as aforesaid, to the said firm of Basse & Hord, or to either member thereof, to appear on, for, or representing me or my said principals, or any of them, in the United States courts, or in any court or courts within the limits of the United States of America or elsewhere, and especially revoking, countermanding, annulling, and making void all power and authority heretofore granted to the said firm of Basse & Hord, or to either member of the same, to act as agent or agents, attorney or attorneys, either for me or for my principal aforesaid, or for any or for either of them in representing the interest of myself, or of either or any of my said principals, in the lands of the Potrero del Esperitu Santo and Santa Isabel, or in any other land or lands whatsoever in any power of attorney or instrument of writing contained. Witness my hand and seal this 29th day of January, A. D. 1850.

ANTONIO LONGORIO. [SEAL.]

Witness:

J. J. H. GRAMMONT.

C. A. HARPER.

THE STATE OF TEXAS,

County of Cameron.

Before me, Russell Howard, a notary public in and for the county and State aforesaid, duly commissioned and sworn, this day personally appeared J. J. H. Grammont, who, being by me duly sworn, on his oath, stated that he is personally acquainted with and saw Antonio Longorio, the grantor in the within instrument of writing, subscribe the same, and that it was his act and deed for the purposes and consideration therein stated, and that thereupon he, the said J. J. H. Grammont, signed the same at the request of the said Antonio Longoria.

To certify which, I hereunto set my hand and seal of office, at [L. s.] Brownsville, on this 29th day of January, A. D. 1850.

RUSSELL HOWARD,

Notary Public, Cameron County, Texas.

Filed for record January 29, 1850, at 4 o'clock p. m., and recorded the same day.

J. J. H. GRAMMONT,
Clerk County Court, Cameron County.

THE STATE OF TEXAS,
County of Cameron.

I, the undersigned, J. J. H. Grammont, clerk of the county court and recorder in and for the county of Cameron, State of Texas, do hereby certify that the foregoing is a true and correct copy of the record of my office in record book C, pages 45 and 46.

Witness my hand and seal of office, on this first day of January,
[L. s.] A. D. 1850.

J. J. H. GRAMMONT,
Clerk County Court, Cameron County.

And afterwards, to wit, on the twenty-third day of February of the same year, there issued from the clerk's office of our said court letters rogatory addressed to the authorities of Matamoras and Camargo, which are in the words and figures following, that is to say :

Villa de Camargo.

[Accompanying interrogatories to D. Nicolas Garcia, D. Manuel de la Chapa, D. José Antonio de la Garza Falcon, y D. Juan Manuel Ramires.]

UNITED STATES OF AMERICA,
District of Texas, ss.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the town of Camargo, or in the State of Tamaulipas, in the United Mexican States, greeting:

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela [or de los Angeles] Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, and it has been suggested to us that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, to the several interrogatories and cross-interrogatories hereunto annexed, and that you will

cause their depositions to be committed to writing, and delivered under cover, duly closed and sealed up, together with the said interrogatories and these presents, to the person who may present this letter, in order that he may bring them to our said court, and we shall always be ready to do the same for you in a similar case when required.

Witness the Hon. John C. Watrous, judge of the district court of the United States of America for the district of Texas, at the city of Galveston, on the twenty-third day of February, in the year one thousand eight hundred and fifty.

[L. S.]

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA, }
District of Texas, } ss.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Matamoras, or in the State of Tamaulipas, in the United Mexican States, greeting :

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, and it has been suggested to us that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and then and there to answer, on their oaths, to the several interrogatories and cross-interrogatories hereunto annexed, and that you will cause their depositions to be committed to writing, and delivered under cover, duly closed and sealed up, together with the said interrogatories and these presents, to the person who may present this letter, in order that he may bring them to our said court, and we shall always be ready and willing to do the same for you in a similar case when required.

Witness the Hon. John C. Watrous, judge of the district court of the United States of America for the district of Texas, at the city of Galveston, on the twenty-third day of February, in the year one thousand eight hundred and fifty.

[L. S.]

JAMES LOVE, *Clerk.*

And afterwards, to wit, on the fourth day of March, at the March rules of said court, a rule was entered, which is in the words and figures following, that is to say :

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

First. That much of the defendants' testimony material to the defence of said cause is in the public archives of the State of Tamaulipas, at the city of Victoria, in said State, being one of the United Mexican States, and other portions in Matamoras and in the city of Mexico, in the republic of Mexico, and that a considerable length of time will be necessary to take said testimony.

And afterwards, to wit, on the first day of April of the same year, came Doña Feliciana de Tigerina, and filed her answer herein in the words and figures following, that is to say :

IN THE UNITED STATES DISTRICT COURT
for the District of Texas.

The separate answer of Feliciana Gozeascochea de Tigerina, widow, one of the defendants therein named to the bill of complaint of Don Rafael Garcia Cavazos, Doña Estafana Gozeascochea de Cortina, widow, complainants, and citizens of the State of Tamaulipas, one of the United Mexican States, exhibited against Charles Stillman, Samuel A. Belden, Don Manuel Prieto, Feliciana Gozeascochea de Tigerina, and others, citizens of the State of Texas, and Jacob Mussina, a citizen of the State of Louisiana, defendants.

That this respondent admits and adopts all that portion of the original bill of complaint as set forth, and narrates the grant, by way of sale, of the tract of land known as El Potrero del Esperitu Santo, by the crown of Spain, unto José Salvador de la Garza, at the time, in the manner, and with the forms and ceremonies in said bill described. This respondent further admits that the said original and amended bills correctly state the marriage, issue, and the death of the said Don José Salvador de la Garza and his wife, therein mentioned, at the time and in the manner and order therein expressed.

And this respondent, further answering, saith, that, upon the death of the said Don José Salvador de la Garza and wife, that Don Blas Maria de la Garza, Doña Francisca Xaviera de la Garza, and Doña Maria Antonio Marguerita de la Garza, succeeded and took possession of, occupied, and tenanted the aforesaid tract of land as set forth in the original grant thereof, as the sole heirs and legal representatives of the said Don José de la Garza, and that they and their heirs and legal representatives have continued to occupy, possess, and enjoy the same up to the present time, as set forth and described in said original bill.

This respondent, further answering, says, that the marriage of the said daughters of Don José Salvador de la Garza, and the issue of each, respectively, as also the deaths of each, is correctly stated in said original bill and amendments, and that respondent and her sister, Doña Estafana Gozeascochea de Cortina, now a widow, are the only children and legal representatives of their said mother, Doña Francisca Xaviera de la Garza.

This respondent admits the death of the said Don Blas Maria de la Garza in the manner and at the time in said original bill and amendments stated, but denies all knowledge of the said devise by him made, as also the subsequent devises of those claiming under him, as set forth in said original bill and amended bill.

Respondent, further answering, admits that there was an understanding between this respondent and the other heirs of Don José Salvador de la Garza that the said tract of land should be so divided as to secure and partition to each, respectively, their several shares of said tract of land in such manner that the improvements by each and their ancestor made should be embraced and included.

Your respondent therefore prays that a survey of said tract of land be ordered, and thereafter an allotment be decreed to this respondent of her just interest in said tract of land, and that respondent be hence dismissed at the cost of complainants.

E. BASSE & R. H. HORD,
Of Counsel for Defendants.

UNITED STATES OF AMERICA, }
District of Texas. }

I, Feliciana Gozeascochea de Tigerina, being duly sworn, depose and say, that the facts set forth and contained in the foregoing answer are, so far as they are stated on her knowledge, true, and so far as they are stated on the knowledge by her acquired she believes them to be true.

FELICIANA GOZEASCOCHEA.

Sworn to and subscribed before me, this 23d day of February, A. D. 1850, at the town of Brownsville, Texas.

A. C. ALLEN,
Commissioner United States District Court.

And afterwards, to wit, on the same day and year, Josef Manuel Prieto came into court and filed his answer herein, which said answer is in the words and figures following, that is to say :

Answer of Don Josef Manuel Prieto.

IN THE UNITED STATES DISTRICT COURT

For the District of Texas.

Sitting in equity.

The separate answer of Manuel Prieto, one of the defendants therein named in the bill of complaint of Don Rafael Garcia Cavazos, Doña Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, widow, complainants, and citizens of the State of Tamaulipas, one of the United Mexican States, exhibited against Charles Stillman, Samuel A. Belden, José Manuel Prieto, and Doña Maria Feliciana Gozeascochea de Tigerina, and others, citizens of the State of Texas, and Jacob Mussina, a citizen of the State of Louisiana, defendants.

The said respondent, reserving unto himself all objections to the numerous errors, imperfections, uncertainties, and other informalities in the said complainants' original, amended, and supplemental bill of complaint contained, for answer thereunto, and unto so much and such part or parts thereof as this deponent is advised is or are material or necessary for him to make answer unto, this respondent answering saith :

First. That true it is that heretofore, to wit, about the 18th day of July, in the year one thousand seven hundred and eighty-one, the President Regente and Ordore, composing the Royal Audencia of New Spain, acting and performing the duties as such in conformity with the laws of Spain and the Indies, and the royal decrees, orders, and instructions for the government of the viceroyalty of New Spain, at the city of Mexico, and after the usual requisites and formalities of law had been fully performed, complied with, and satisfied, confirmed the grant by way of sale, which had been previously ceded to Don José Salvador de la Garza, of the Colonia de Nuevo Santander in the said viceroyalty, by Don Francisca Xavier Gamboa, special judge of lands and waters of the tract there known as "El Potrero del Esperitu Santo," situate in the Colonia de Nuevo Santander aforesaid, containing fifty-nine sitios and about eleven caballerias of land, and bounded as in the said grant is set forth and described, and which is here specially called for, and leave is craved for reference thereto when the same shall be produced. That thereafter, to wit, on the twenty-sixth day of September, in the year of our Lord one thousand seven hundred and eighty-one, the said Francisco Xavier Gamboa, acting in the regular exercise of his functions as special judge for the sale and disposition of lands and waters in the said viceroyalty of New Spain, in pursuance of such confirmation, and in accordance with the laws, decrees, orders, and instructions aforesaid,

at the said city of Mexico, in the name and by the authority of Don Carlos III, then king of Spain and the Indies, adjudicated and granted the aforesaid tract of land by way of sale to the said Don José Salvador de la Garza in the most solemn form of law, giving to him, his heirs, successors, and assigns, full property therein, and right and power to use, possess, enjoy, and dispose of the same as he or they might desire, and the law allow.

That thereafter, to wit, in the year aforesaid, the said Don José Salvador de la Garza intermarried with Doña Maria Gertudis de la Garza Falcon, as this respondent is informed and believes, about the time stated in said complainants' original and amended bills of complainants, by whom he had issue one son, D. Blas Maria de la Garza, and two daughters, Doña Francisca Xavier de la Garza and Doña Maria Antonia Marguerita de la Garza, and that the said Don José Salvador de la Garza thereafter died, as stated in the complainants' original and amended bill, leaving their aforesaid children as the sole heirs of their said tract of land.

This respondent, further answering, says, that the said Doña Maria Antonia Marguerita de la Garza, about the date mentioned in the said original and amended bills of complainants, married, as respondent is informed and believes, with Don Pedro Lopez Prieto, and that she with her said husband died, as set forth (to the best of respondent's recollection and belief) in said original and amended bill of complainants, leaving issue two sons, namely, Don Antonio Prieto and this respondent.

This respondent, further answering, says, that his aforesaid brother, now deceased, and himself, and his aforesaid father and mother, with the said Don Blas Maria de la Garza, and the said Francisco Xavier de la Garza, and her husband, Don José Gozeascochea, together with their legal representatives, to the time of the said Don José Salvador de la Garza, have held, possessed, occupied, and retained the said tract of land as rightful owners thereof, and have exercised all customary acts of ownership over the same, pasturing large stocks of cattle, horses, and mules, and building hacals, cattle-pens, sheds, granaries, and dwelling-houses thereon, tilling the soil, and enclosing the ground by fences and other means at different times, and receiving the profits therefrom, and generally doing all acts that might render their title and possession public and notorious up to the present time.

Your respondent knows nothing of the marriage of the said Don Blas Maria de la Garza, nor of the devises by him made, as alleged in said original and amended bill of complainants, except by report; nor does respondent know aught of the alleged subsequent devises mentioned in said original and amended bill of complainants, made by those claiming under the said Don Blas Maria de la Garza.

This respondent, further answering, says, that there was an understanding between this respondent and the other heirs of the said Don José Salvador de la Garza, that the said tract of land should be so divided as to secure and partition to each, respectively, their several share or portion of said land in a fair and equitable manner, and also that the allotment to each made should be so done as to include and

embrace the improvements by each and their respective ancestor made and occupied. Your respondent admits that the land described in the complainants' original bill is the same as that of which he claims a part.

Your respondent therefore prays that a survey of said tract of land be made, and thereafter an allotment be decreed to this respondent of his interest in said tract of land, and that respondent be hence dismissed at the cost of complainants.

E. BASSE,
ROBERT H. HORD,
Of Counsel for Defendants.

UNITED STATES OF AMERICA,
District of Texas.

I, Manuel Prieto, being duly sworn, depose and say, that the facts set forth and contained in the foregoing answer are, so far as they are stated on my own knowledge, true, and so far as they are stated on the knowledge by me acquired I believe them to be true.

MAN'L PRIETO.

Sworn to and subscribed before me, this 23d day of February, 1850, at Brownsville, Texas.

A. C. ALLEN,
Commissioner U. S. D. C.

And afterwards, to wit, on the 5th day of April of the same year, a motion was filed herein in the words and figures following, that is to say :

Motion.

IN THE DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

The defendants respectfully pray the court to extend the time for taking testimony in their case until the next term of this court, and refer to the annexed affidavit of R. H. Hord for the reasons on which the affidavit is asked to be sustained.

JOHNSON & SWETT,
Solicitors for the Defendants, for whom they appeared.

And annexed thereto is the affidavit of Robert H. Hord, in the words and figures following, that is to say :

Affidavit of R. H. Hord.

Robert H. Hord, being duly sworn according to law, says that he has been, in conjunction with his partner, Elisha Basse, and others, counsel for several of the defendants in this suit since it was first instituted; that from the nature of the questions involved and the difficulty of obtaining the necessary evidence, it has been hitherto impracticable, and still is so, to be in readiness for trial; that much of the evidence consists of records of courts and corporations in

the republic of Mexico, and that great and unavoidable delay and difficulty exist in procuring copies and proof of the same; that several witnesses also reside in the said republic of Mexico, whose testimony is difficult to be obtained; that besides this the complainants have examined a great number of witnesses in said republic of Mexico, whose testimony is new and was unknown to the defendants, and they are still taking the testimony of the witnesses there, under letters rogatory, whose testimony has not yet been published, and it is of such a nature as to render it requisite, in the opinion of this defendant, to take other testimony to explain or rebut it. These witnesses are scattered over an extent of several hundred miles in Mexico, and require a considerable time to be employed in finding their residence, the facts they can prove, and in taking the testimony when found. This deponent further states, that very important witnesses, without whose testimony the defendants, his clients, are unable to establish the truth of this case, live in Mexico, and can be, in a short time, found and produced or examined, if a reasonable opportunity to do so be given. The most active diligence has been exerted to get ready for trial, but, owing to the circumstances above referred to, without success. This deponent states that it is the intention of the defendants to exercise the most prompt and efficient assiduity in preparing this case for trial, and the extension of time to take testimony until the next term will, as he verily believes, enable them to be ready for the trial of the case. This application is not made for delay, for the defendants are very anxious to try the case, but because they and he believes would occasion serious injury and greatly prejudice their rights to try this case without affording the time asked for to complete the evidence in this behalf. He states further that immediately after the commencement of this suit that a portion of the parties whom he represented as aforesaid applied to the ayuntamiento of the city of Matamoras for copies of the records of said city, showing the appropriation for public use, for said city, of the land on which Brownsville is situated, and that after constant and unremitting exertions the required record was only obtained a few weeks ago, and from them it appeared that other records were indispensable, which were kept at Victoria, and other places in Mexico, to complete the proof which the defendants supposed would be found among the archives of Matamoras. It has been utterly impracticable to obtain these additional records, and some time must necessarily elapse before they can be procured; the records or copies of them are essential parts of the evidence in the case to sustain the rights of the defendants, who claim that portion of the land in controversy on which Brownsville is located; and further saith not.

R. H. HORD.

Sworn to and subscribed before me, this fifth day of April, 1850, in the city of New Orleans, State of Louisiana.

D. C. LOBATT,
U. S. Commissioner.

Affidavit of William G. Hale.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
 CHARLES STILLMAN and others.

I, William G. Hale, make oath and say that I received the packages herewith filed, marked *CY*, from the hands of Don Manuel de la Viña, first alcalde and ex officio judge of the first instance of the town of Camargo. The packages *EV*, *FU*, *GT*, from the hands of the secretary or clerk of D. Pedro de la Garza, first alcalde and ex officio judge of the first instance of the city of Matamoras; and the package marked *HS* from the hands of A. C. Allen, commissioner in this cause; and that the said packages, then closed and sealed, have remained in my possession unopened and unaltered up to the time of filing the same.

WILLIAM G. HALE.

Subscribed and sworn to in open court, June 4th, 1850.

JAMES LOVE, *Clerk.*

And afterwards, to wit, on the twelfth day of June of the same year, the complainants, by their counsel, filed a set of interrogatories herein, which are as follows, that is to say:

Interrogatories to T. W. Harris.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be administered to Thaddeus William Harris, a witness to be produced, sworn, and examined in a certain cause now pending in chancery in the district court of the United States for the district of Texas, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Joseph Manuel Prieto are defendants, on the part of the said complainants.

Interrogatory first. Do you know the parties to this cause, or any, and whom of them?

Interrogatory second. What offices or posts do you hold in Harvard University, and, in particular, what office in relation to the library of the said university?

Interrogatory third. Is there, or not, under your charge, and if so, under what capacity and by virtue of what office, a collection of maps of different portions of the American continent, and, in particular, of Mexico? If so, from whom and how was said collection procured?

Interrogatory fourth. Look at the several sketches or copies of maps and portions thereof, markd *I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII*, and state whether or no they are true copies of and from maps, plans, and sketches, making part of the said collection under your charge. State particularly with regard to each copy who was the author or compiler of the map of which it is a copy, and when and where such map was published, and what is its reputation for accuracy.

Interrogatory fifth and last. Do you know anything else which may be a benefit or advantage to any of the parties at issue in this cause, or material to the subject of this your examination? If yea, set it forth fully and at large in your answer.

EBN. ALLEN & WM. G. HALE,
Solicitors for Complainants.

And afterwards, to wit, on the same day and year, a notice was entered on the rule, which is in the words and figures following, that is to say :

Rule.

RAFAEL GARCIA CAVAZOS and others
vs.
 CHARLES STILLMAN and others.

To Charles Stillman and the other defendants in said cause, or to Ovid F. Johnson, Joseph A. Swett, Robert H. Hord, Elisha Basse, Rice Garland, Volney E. Howard, and W. P. Ballinger, solicitors of the said defendants, or some of them.

Gentlemen: Please to take notice that I have this day filed interrogatories to Thaddeus William Harris, a witness to be examined on behalf of the complainants in said cause, and that you can file cross-interrogatories within ten days from the day of this notice, if you think fit; otherwise, application will be made for the naming of a commissioner, and the issuance of a commission for the examination of said witness.

EBN. ALLEN & WM. G. HALE,
Solicitors for Complainants.

And afterwards, to wit, on the fifteenth day of June of the same year, the complainants, by their counsel, filed a motion herein, which said motion was in the words and figures following, that is to say :

Motion.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.
 In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
 CHARLES STILLMAN and others.

Ebenezer Allen and William G. Hale, of counsel for the complainants in the above entitled cause, move the court to order that, in case a further petition or application for a further enlargement of time to take testimony be presented before the expiration of the time now granted, to wit, before the — Monday of September next, then publication of the testimony in said cause shall on that day pass in the clerk's office, and the cause be set for hearing upon the pleadings and process therein.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Complainants.

And afterwards, to wit, on the same day and year, the complainants, by their counsel, filed another motion herein, which is in the words and figures following, that is to say ;

Motion.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.
 In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
 CHARLES STILLMAN and others.

Ebenezer Allen and William G. Hale, of counsel for the complainants in the above entitled cause, move the court to name Edmond B. Otis, of the city of Boston, and E. P. Hunt, of the city of Galveston, commissioners in chancery in the said cause, for the purpose of taking the depositions of witnesses upon interrogatories now or hereafter to be filed therein, giving them power to act separately.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Complainants.

And afterwards, to wit, on the seventeenth day of June of the same year, the court here made an order in this cause, which said order is in the words and of the tenor following, that is to say :

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
vs. }
 CHARLES STILLMAN and others.

Upon motion of the counsel for complainants, it is ordered by the

court that in case no further petition or application for a further enlargement of time to take testimony be presented before the expiration of the time now granted, to wit, the first Monday in September next, the publication of the testimony in this cause then on file do on that day take place in the clerk's office, and that the cause be set for hearing upon the pleadings and process therein.

And afterwards, to wit, on the same day and year, the court here made an order in this cause, in the words and figures following, that is to say :

Order of Court.

RAFAEL GARCIA CAVAZOS and others
vs.
 CHARLES STILLMAN and others.

On motion of counsel for complainants, it is ordered that Edmond B. Otis, of the city of Boston, Augustus C. Allen, of the county of Cameron, and Thomas H. Duval, of the city of Austin, and E. P. Hunt, of the city of Galveston, be appointed commissioners in chancery in this cause, for the purpose of taking the depositions of witnesses upon interrogatories now or hereafter to be filed, giving them power to act separately.

And afterwards, to wit, on the same day and year, the complainants herein filed a motion and affidavit supporting said motion, which are in the words and figures following, to wit:

Motion.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others
vs.
 CARLOS STILLMAN and others.

Ebenezer Allen and William G. Hale, of counsel for the complainants in the above entitled cause, move the court to order that the said complainants have leave to file the proposed amendment marked X, now presented to the court, as an amendment to their bill of complaint herein, without prejudice to their replications or to the testimony taken in this cause, and they refer to the accompanying affidavit in support of this motion.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Complainants.

Affidavit of William G. Hale.

I, William G. Hale, one of the solicitors and counsel for the complainants in the above entitled cause, make oath and say that the amendment made in the foregoing motion is not made for the purpose of vexation or delay, but, on the contrary, that the matter contained in it is material, and could not with reasonable diligence have been sooner introduced into the bill; and I further say that I have been the counsel chiefly relied upon by the said complainants in the draughting the bill of complaint and the general management of this cause, and have held constant communications with them and their agent for the purpose of ascertaining all the facts connected with the matters set forth in the said bill, and that I have also personally endeavored to obtain this information from other sources; that neither myself nor, as I verily believe, the agent of complainants, was aware of the facts stated in the said amendment until about two months ago, when we ascertained them by a search among the archives of the ayuntamiento of Matamoras, and that this is the first opportunity since that discovery and my own return that I have had of proposing the said amendment to this court and of preparing the same.

WM. G. HALE.

Subscribed and sworn to in open court on 17th June, 1850.

JAMES LOVE, *Clerk.*

And afterwards, to wit, on the nineteenth day of June of the same year, the court here made an order in this cause, which is in the words and figures following, that is to say:

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
vs. }

CHARLES STILLMAN and others. }

Upon motion of counsel for complainants, and after argument heard, it is ordered by the court that the said complainants have leave to file their amendment to their amended bill of complaint, marked X, and now presented and read to the court, without prejudice to their replications already filed and to the testimony taken in this cause. And it is further ordered that the said complainants furnish the solicitors of the defendants with a correct copy of their amendment. And it is further ordered, by consent, that the defendants may file any amendment to their answer, made necessary by the said amendment to the bill, at any time before the next term of this court, which shall be considered as filed before the replications and at the time of filing the original answer.

And afterwards, to wit, on the same day and year, came the complainants, by their attorneys, and filed the amendment, marked X, which is in the words and figures following, that is to say:

Amendment X.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

The amendment of DON RAFAEL GARCIA CAVAZOS, DOÑA MARIA JOSEFA CAVAZOS, his wife, DOÑA ESTAFANA GOZEASCOCHEA DE CORTINA, complainants, to their amended bill of complaint,
 against

CHARLES STILLMAN, SAMUEL A. BELDEN, JACOB MUSSINA, RICHARD FITZPATRICK, W. W. CHAPMAN, PATRICK C. SHANNON, and DOÑA ANGELA GARCIA SAFEN DE TARNEVA, D. RAMON SAFEN, DOÑA FELICIANA DE TIGERINA, and D. JOSEF MANUEL PRIETO, defendants.

These complainants, by leave of the court, amend their bill of complaint heretofore filed in this cause, and thereafter at several times amended, by striking out the part thereof from the words "to wit," on the sixth line of the fourth page, to the words Ramon Safen on the ninth line of the same page, inclusive of said words, and inserting the following:

"Died leaving one child and his wife, to wit: Doña Maria Jacinta Olivares, surviving, and afterwards his said child also died unmarried and without issue, and the said Doña Maria Jacinta Olivares thereafter, on the 15th day of July, A. D. 1827, through D. Reynaldo Treviño, her husband and legally constituted attorney, and by an act of sale, in due form, granted and conveyed the portion of the said land, and all right and title formerly belonging to her said (1st) first husband, D. Antonio Prieto, to D. Ramon Safen."

And the said complainants waive any right or claim which they may have, on account of this amendment, to a further answer of their said bill, from such of the said defendants as have already answered, and humbly pray, as in and by their said bill they have already prayed.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Complainants.

And afterwards, to wit, on the sixteenth day of July of the same year, the following acknowledgment of service of amendment to bill was filed, and is in these words and figures, that is to say:

Acknowledgment of service.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs.

CHARLES STILLMAN and others. }

I acknowledge to have received on this day from William G. Hale, solicitor for the complainants in the above entitled cause, a certified

copy of the amendment marked X, filed yesterday by leave of the court, as an amendment to the complainants' amended bill of complaint; said copy to be transmitted to R. H. Hord, esq., solicitor for Charles Stillman and Samuel A. Belden.

W. P. BALLINGER,

JUNE 26, 1850.

Acting for R. H. Hord, at his request.

We have received copy for Mussina, also for Rice Garland, solicitor for defendants, Shannon and Fitzpatrick.

JOHNSON & SWETT.

And afterwards, to wit, on the twenty-fifth day of July of the same year, two sets of interrogatories were filed herein, which were as follows, that is to say:

Interrogatories to Willard Richardson and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be administered to Willard Richardson, Hamilton Stewart, Samuel M. Williams, witnesses to be produced, examined, and sworn in a certain civil cause now depending and at issue in the district court of the United States for the district of Texas, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Richard Fitzpatrick, Patrick C. Shannon, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants:

Interrogatory first. Do you know the parties to this cause, or any of them? How long have you known them, respectively?

Interrogatory second. Look at the several copies of newspapers now produced to you, and to be annexed to your deposition, marked —? Of what newspapers are the same copies or numbers? Where is such newspaper printed?

Interrogatory third, and last. Do you know or can you set forth any other matter or thing material to the subject of this your examination, or which may be of service to any of the parties in this cause? If yea, set it forth fully and at large in your answer.

EBN. ALLEN & WM. G. HALE,

Of Counsel for Complainants.

Interrogatories to William G. Hale.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to William G. Hale, a witness to be produced, sworn, and examined in a certain cause now pending

in chancery in the district court of the United States for the district of Texas, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Richard Fitzpatrick, Patrick C. Shannon, W. W. Chapman, and Angela Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josefa Manuel Prieto are defendants, on the part of the said complainants:

Interrogatory first. Do you know the parties in this cause, or any, and whom of them?

Interrogatory second. Are you acquainted with the handwriting and signature of Juan Prado? If so, look at the paper writings now exhibited to you, marked *LM*, *NT*, *UV*, *XY*, *OP*, *QR*, *BC*, *DE*, *FG*, and to be annexed to your deposition, and state whether or no the signature, purporting to be that of Juan Prado, at the end of each, is his genuine signature.

Interrogatory third. What office did Juan Prado hold at the time of signing the said paper writings, and how do you know that he held it?

Interrogatory fourth. Look at the printed paper marked —, now exhibited to you, and state whether or no the same is a number or copy of a newspaper printed in Matamoras, Mexico. How do you recognize it, and what makes you believe it what you state it to be?

Interrogatory fifth. Are you acquainted with the handwriting and signature of José Francisco Recio, curate of the town and jurisdiction of Camargo? If so, look upon the document now produced to you, and to be annexed to your deposition, marked *GH*, purporting to be a copy from the archives or ecclesiastical registers of the said town of Camargo, and state whether or not the same and the signature thereto is in the handwriting of the said Recio.

Interrogatory sixth, and last. Do you know, or can you state, anything else which may be a benefit or advantage to any of the parties in this cause, or which may be material to the subject-matter of this your examination? If yea, set it forth at large in your answer.

EBENEZER ALLEN,

Solicitor for Complainants.

And afterwards, to wit, on the twenty-seventh day of July of the same year, the complainants entered a motion on the rules of said court, which is in the words and figures following, that is to say:

Rule.

RAFAEL GARCIA CAVAZOS and others

vs.

CHARLES STILLMAN and others.

To Charles Stillman and the other defendants in the above entitled cause, or to Volney E. Howard, Ovid F. Johnson, Joseph A. Swett, Robert H. Hord, Rice Garland, solicitors of the said defendants.

Gentlemen: Please to take notice that I have filed interrogatories in this cause, to be propounded to Willard Richardson, Hamilton

Stewart, and Samuel M. Williams, and also to William G. Hale; and that I shall proceed, at the expiration of ten days from the date of this notice, to take out a commission for taking the depositions of the said witnesses on such interrogatories, before which time you can file cross-interrogatories, if you think fit.

ALLEN & HALE,
Solicitors for Complainants.

JULY 27, 1850.

And afterwards, to wit, on the sixth day of August of the same year, an agreement was made between the parties, which is in the following words and figures, viz:

Agreement.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.
In Chancery.

RAFAEL GARCIA CAVAZOS and others
vs.

CHARLES STILLMAN and others.

We agree, on the part of our respective clients, that the depositions taken in this cause shall not be opened at our request and publication made until the first Monday in November next; but this agreement is merely personal to us, and is not intended to affect the order made at the last term of the court respecting the setting the cause for hearing.

BASSE & HORD,
Solicitors for Chs. Stillman and Sam'l A Belden.

ALLEN & HALE,
Solicitors for the Complainants.

AUGUST 2, 1850.

And on the same day and year another agreement was filed herein, which is in the words and figures following, that is to say:

Agreement.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.
In Chancery.

RAFAEL GARCIA CAVAZOS and others
vs.

CHARLES STILLMAN and others.

The complainants, by their solicitors, agree that any testimony taken in this cause after the first day of September next ensuing, and before the final hearing of the said cause by any of the defendants who may agree to a like privilege, on the part of the complain-

ants, may be read in evidence, subject to all other legal objections, with the same effect as if the same had been taken and filed before the said first day of September, it being understood that this agreement extends only to testimony taken before the close of the next term of this court.

ALLEN & HALE,
Solicitors for Complainants.

AUGUST 3, 1850.

We agree to the foregoing.

BASSE & HORD,
Solicitors for Chs. Stillman and Sam'l A. Belden.

Interrogatories to Doña Maria Jacinto Olivares and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Doña Maria Jacinta Olivares, D. Marcial Flores, D. Jesus de Abrigo, D. Tomas Guerra, y D. Domingo Guerra, witnesses to be produced, sworn, and examined in a certain cause before the judge or tribunal of the city of Matamoras and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas in a certain cause therein pending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon, Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants :

Interrogatory first. Do you, or not, know the plaintiff and defendants above named ?

Interrogatory second. To whom was Doña Maria Jacinta Olivares first married ? To whom second ?

Interrogatory third. How many children did she have by her first husband ? What were their names ? Are they still living ; and if not, when did they die ?

Interrogatory fourth. Are you acquainted with Doña Maria Angela Garcia ? If so, to whom was she first married ? To whom second ? How many children did she have by her first husband ? What were their names ? Are they or any of them now living or dead ? Did or did not the child now dead have any children ?

Interrogatory fifth, and last. Do you know anything else which may be of service or benefit to any of the parties in this cause, or may be of importance in this your examination ? If yea, set it forth at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

Interrogatories to Don Joaquin Arguelles and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to D. Joaquin Arguelles, a witness to be produced, sworn, and examined before the judge or tribunal of the city of Matamoras and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a certain cause therein pending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants :

Interrogatory first. Do you know, or not, the parties above named?

Interrogatory second. Are you acquainted, or not, with the handwriting and signature of D. Rufino Rodriguez? If so, look at the two paper writings now presented to you, marked *AT*, *BS*, and purporting to be copies of his appointments as "official mayor," and "secretario del despacho" of the State of Tamaulipas? Is or is not the signature at the end of said paper writings, purporting to be the signature of said Rodriguez, his true and genuine signature in fact?

Interrogatory third. Are you, or not, acquainted with the handwriting and signature of D. Manuel de la Viña? If so, look at the paper writing marked *C*, *R*, now presented to you, and purporting to be a certificate as to the acts of election of certain alcaldes of Reynosa. Is or is not the signature at the end thereof, purporting to be the signature of the said Viña, in fact his genuine signature?

Interrogatory fourth, and last. Do you know anything else which may be a benefit or advantage to the parties in this cause, or of importance in this your examination? If yea, set it forth at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants,

Interrogatories to Don Vincente Lira and others.

DISTRICT COURT OF THE UNITED STATES, }
District of Texas. } In Chancery.

Interrogatories to be propounded to D. Vincente Lira, D. José Maria Medrano, D. José Maria Villareal, D. Jesus de Abrigo, D. Tomas Guerra, D. Domingo Guerra, witnesses to be produced, sworn, and examined before the judge or tribunal in the city of Matamoras and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the

or tribunal in Matamoras, in the State of Tamaulipas, so that you will file cross-interrogatories within that time, if you think proper.

ALLEN & HALE,
Solicitors for Complainants.

OCTOBER 17, 1850.

And afterwards, to wit, on the nineteenth day of October of the same year, an agreement was filed herein, which is in the words and figures following, that is to say :

Agreement.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others, complainants,
vs.

CHARLES STILLMAN and others, defendants.

} No. 41.

The defendants, Jacob Mussina, Maria Angela Safen de Tarneva, and Ramon Safen, hereby adopt and agree to the agreement filed in this cause on the 6th day of August, 1850, in relation to the taking of testimony in said cause, said agreement being signed by Messrs. Allen & Hale for complainants, and by Messrs. Basse & Hord for Stillman and Belden, defendants.

OVID F. JOHNSON and
J. A. SWETT,

Solicitors for the above named defendants.

AUGUST 10, 1850.

And afterwards, to wit, on the twenty-third day of October of the same year, a subpœna issued from our said court in the words and figures following, that is to say :

Subpœna.

UNITED STATES DISTRICT COURT,
District of Texas.

The President of the United States of America to the marshal or any of his lawful deputies of the district of Texas, greeting :

You are hereby commanded to summon Elisha Basse and Robert H. Hord, if they be found in your district, to be and appear before the honorable the district court of the United States, at a court to be holden in and for the district of Texas, at the city of Galveston, on the first Monday in December next, and to bring with them the testimonios of title to the tract of land known as Concepcion de Carrisitos, and to the tract of land surrounding the Sal del Rey, then and there to give evidence on part of complainants in a suit now depending in

said court, wherein Rafael Garcia Cavazos and others are complainants, and Charles Stillman and others are defendants.

Witness the honorable John C. Watrous, judge of said court, and seal of court, this 23d day of October, A. D. 1850, and of the independence of the United States the 75th year

[SEAL.]

JAMES LOVE, *Clerk.*

And afterwards, to wit, on the twenty-sixth day of October of the same year, a commission to take depositions issued from our said court, and is in the words and of the tenor following, that is to say :

Commission.

The President of the United States of America to any notary public in the county of Nueces, greeting :

Know ye that I, in consequence of your prudence and fidelity, have appointed, and by these presents do give unto you (and each of you) full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a cause now depending and at issue in chancery in the district court of the United States for the district of Texas, wherein Don Rafael Garcia Cavazos *et als.* are complainants, and Charles Stillman *et als.* are defendants ; and therefore I command that one of you do, at certain days and places to be appointed for that purpose, cause the witnesses named in the title to said interrogatories, or such of them as shall be delivered to you, to come before you, and then and there examine them apart upon the said interrogatories, either on their respective corporal oaths first taken before you on the Holy Evangelists, or, in case of Quakers, upon their solemn affirmation and declaration, or in such other solemn manner as is or may be authorized by law, and that you do take such their examinations and reduce them into writing ; and when you shall have so taken them you are to send the same to the clerk of the above named court without delay whatsoever ; it shall be closed up and under your seal distinctly and plainly set, together with the said interrogatories and this writ.

And I further command you that, before you act or be present at the swearing or examining said witness or witnesses, you do take and subscribe the oath specified in the schedule hereunto annexed, before a commissioner of the United States or a judge of some court of record.

Witness the honorable John C. Watrous, judge of the district court of the United States for the district of Texas, and seal of the said court, this 26th day of October, A. D. 1850, and of the independence of the United States the seventy-fifth year.

[SEAL.]

JAMES LOVE, *Clerk.*

I will, according to the best of my skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness

and witnesses produced and examined by virtue of the commission annexed, upon the interrogatories delivered to me, and I will not publish, disclose, or make known to any person or persons the contents of all or any of the depositions of the witnesses, or any of them, to be taken by me until publication shall pass, pursuant to some general or special order of the court wherein the same are taken. So help me God.

(Signed)

H. A. GILPIN.

Subscribed and sworn to this 16th day of January, A. D. 1851, before me.

JOHN M. COOPER, *J. P. N. C.*

And afterwards, to wit, on the same day and year, the defendants filed several sets of interrogatories herein, which are in the words and figures following, that is to say :

Interrogatories to Francis T. Latham and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

Interrogatories to be propounded to Francis T. Latham and Budd H. Fry, of the county of Cameron, in the State of Texas, witnesses to be produced, sworn, and examined in a certain cause now depending in chancery in the district court of the United States in and for the district of Texas, wherein Rafael Garcia Cavazos and Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Safen de Tarneva, and Ramon Safen Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of defendants, Stillman, Belden, and Mussina:

Interrogatory first. Do you know the parties to this cause, or any, and whom of them?

Interrogatory second. Do you or do you not at the present time hold any or some office in the county of Cameron? If yea, what office, and how long have you had possession and been in the discharge of the duties of said office? Have you or have you not the custody and control of the records of Cameron county as aforesaid?

Interrogatory third. Look at and examine the deeds and instruments of writing here shown to you, and numbered from (1) to . Compare said deeds or instruments of writing with the book or books of record in your office. In which book or books do said deeds or instruments of writing purport to have been recorded? Are or are not said deeds or instruments of writing all, or some of them, recorded in the proper office of records in the county of Cameron? State which of them have been so recorded, and the time when recorded, if at all.

Interrogatory fourth. Are or are not the several instruments of

writing, deeds, &c., now shown to you recorded, and in the proper office of records in and for said county of Cameron? Describe and designate, by proper marks and references, all of such instruments or deeds so on record in said office. And what deeds of the lands, known as the *Ejidos* of Matamoras, to defendants, Charles Stillman, Samuel A. Belden and Jacob Mussina, or either of them, are now on record? Set forth all deeds and instruments of writing you may speak of in answering the foregoing interrogatories with sufficient references to identify the same.

Interrogatory fifth, and last. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

OVID F. JOHNSON & J. A. SWETT,
*Solicitors for defendants, Charles Stillman, James A. Belden, and
Jacob Mussina.*

The complainants, reserving their objections to the interrogatories, decline a cross-examination, and consent that a commission issue to James M. Reynolds, of New Orleans, now in Cameron county.

ALLEN & HALE,
Of Counsel for Complainants.

Interrogatories to Felix A. Blucher.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded and administered to Felix A. Blucher, of the county of Nueces, a witness to be produced, sworn, and examined in a certain cause now pending in chancery in the district court of the United States in and for the district of Texas, wherein Rafael Garcia Cavazos and his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of defendants, Stillman, Belden, and Mussina:

Interrogatory first. Do you know the parties to this cause, or any, and whom of them?

Interrogatory second. Do you hold any office under, and by authority of, the State of Texas? If yea, what office, and what records and books belonging to such office are in your custody, or under your control?

Interrogatory third. Are you or are you not the surveyor of the land or surveyor's district embracing the county of Nueces? If yea,

are there any books, papers, or records, formerly belonging to your predecessor, or any former surveyor, now in your possession and under your control? If yea, what?

Interrogatory fourth. Are there in your custody or possession any certificates belonging to, or purporting to belong to Chales Stillman, one of the defendants, as assignee thereof, and are there or are there not in your possession the original field notes made upon any surveys of or on such certificates? And are there any, and what, evidences in said office, or under your control, of any survey or surveys made by, or purporting to have been made by, George Lyon, a deputy surveyor of the district of San Patricio and Nueces, in or during the year 1848, or on any land now embraced in or near to the town of Brownsville, in Cameron county, in Texas? If yea, set it forth, and state the same at large.

Interrogatory fifth. Have you or have you not under your possession and in your custody the original field notes and plots of survey made upon the locations in the following named certificates? A certificate issued to David Smiley for three hundred and twenty acres of land. A certificate issued to J. W. B. McFarland for one-third of a league of land. A certificate issued to Estevan Villaral for 1,280 acres of land. A certificate issued to Jacob Smiley for nine hundred and sixty acres of land. Also a petition issued to Sabas Medrano for acres of land. Said locations having been made in the year 1848, and for Charles Stillman, as assignee of said certificates. Have you, or not, said original certificates? If yea, annex the same, together with all original field notes, to your answer to these interrogatories.

Interrogatory sixth. Have you, or not, in your possession, custody, or control, any or some certificates purporting to have been assigned to, and held by, Charles Stillman, one of these defendants, for land, and purporting to have been located on a portion of land in the county of Cameron, and on or near the present site of the town of Brownsville? And have you, or not, the original field notes and plats of survey made upon some such locations or surveys? If yea, set forth the same, and attach said originals to your answers, or state the reason why you cannot do so.

Interrogatory seventh, and last. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

OVID F. JOHNSON & J. A. SWETT,

Solicitors for defendants, Charles Stillman,

Samuel A. Belden, and Jacob Mussina.

The complainants decline cross-examination, and consent that a commission may issue to any notary public in the county of Nueces.

ALLEN & HALE,

Of Counsel for Complainants.

Interrogatories to Don Ignacio Guerres and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Don Ignacio Guerra, Don Joaquin Arguelles, Don Juan Prado, Don Marcos Galindo, Don Urbano Perez, and Don Manuel E. Rijn, of the city of Matamoras and State of Tamaulipas, witnesses to be produced, sworn, and examined before the judge or tribunal of the said city and State, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a certain cause depending in the said court, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) de Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina and Josef Manuel Prieto are defendants, on the part of Charles Stillman and Samuel A. Belden, defendants:

Interrogatory first. Do you know the parties complainants and defendants in the title to these interrogatories named, or either and which of them, and how long have you known them, respectively, or such of them as you do know? Declare the truth, and your utmost knowledge, remembrance and belief herein.

Interrogatory second. Look at the paper writings now produced and shown to you at this the time of your examination, and marked with the letters *A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AD, JF*. What do the same severally purport or appear to be? Are or is the same or any and which of them true copies or transcripts, or a true copy or transcript of the originals or original of which they purport to be; and if not, wherein do they differ, and have you, or not, carefully compared the said produced paper writings, or any and which of them, with the said originals or original; and if so, when, where, and with whom, and who has, or were, the legal keeper or keepers of such original writings, respectively, or any and which of them, at the time you so examined and compared such produced writings therewith, respectively? What office, if any, did you hold at said time? Of what authority, tribunal, office or place are the said originals, or any and which of them kept, and who is the proper or legal custodian of such original records or paper writings at this the time of your examination? Look at the certificates of the said paper writings so produced to you, and state, if you can, in whose handwriting the signatures or signature to the said certificates, or any and which of them, are written. State your means of knowing said handwriting, and state who was the proper person authorized by law to give copies or

a copy from the said originals or original, or any and which of them, at the dates of the said certificates, respectively. Annex the said copies to your answer.

Interrogatory third. Look at the documents or paper writings now produced and shown to you at the time of this your examination, marked, respectively, *Q, R, S, T, U, V, W, X, Y, Z, AD, IF*, and purporting to be evidences or conveyances of title to portions of the *Ejidos* of the city of Matamoras, and say before what person or persons do the originals of the same, or any and which of them, purport to have been made and executed, and what offices did the said persons hold at the time each of said papers appear to have been executed? Look at the certificates or certificate, respectively, annexed to each, and say in whose handwriting the signatures or signature to the said certificates and certificate are or is. State your means of knowing the same.

Interrogatory fourth. Were you, or not, acquainted with Don Francisco Mayorga; and if so, is he now living, or is he dead? And if living, where does he reside?

Interrogatory fifth. Were you, or not, acquainted with Ber. Pedro Pab. Palaez; and if so, is he now living or is he dead; and if living, where? Was he or was he not a notary public in the city of Matamoras on or about the 23d day of January, A. D. 1837?

Interrogatory sixth. Look at the paper writing now produced and shown to you at this the time of your examination, and marked *HS*. What does the same appear or purport to be? Is the same a true copy or transcript of the ordinances of the city of Matamoras, and did you examine and compare the said produced writing with the ordinances of the city of Matamoras? What are the ordinances of the city of Matamoras? What force and effect, if any, have they in said city as laws?

Interrogatory seventh. Are there, or not, some proceedings, suit or pleadings among the records of the ayuntamiento of the city of Matamoras, wherein and whereby Doña Maria Rita Geron opposed the claim and title of the said ayuntamiento of Matamoras to certain lands embraced within the *Ejidos*? If so, please annex to this your answer a correct and true copy of the same. If no such papers be of record among said archives, please state the reason why they are not so of record. What do you know of said suit? Where is the expediente or transcript of the record of said suit?

Interrogatory eighth, and last. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause? If yea, set forth the same fully and at large in your answer.

WILLIAM P. BALLINGER,

Of counsel for defendants, Charles Stillman and Sam'l A. Belden.

Interrogatories to Don Jorge Hopham and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Don Jorge Hopham, Don Antonio Perales, and Don Antonio Quirenes Valdes, of the city of Victoria and State of Tamaulipas, witnesses to be produced, sworn, and examined before the judge or tribunal of the city of Victoria and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a certain suit therein depending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Garcia Safen de Tarneva, Ramon Safen Feliciano de Tigerina, and Josef Manuel Prieto are defendants, said suit being number 41 on the chancery docket of said court, in favor of the said defendants, Charles Stillman and Samuel A. Belden :

Interrogatory first. Do you, or not, know the parties to this suit, complainants and defendants above named, or any and which of them?

Interrogatory second. What office or offices do you hold or have you heretofore held in Mexico?

Interrogatory third. Examine the paper writings produced and shown to you at this the time of your examination, purporting to be copies from the archives of the State of Tamaulipas at Victoria, as follows: 1st. Of a decree of the Congress of Tamaulipas, dated on or about the 28th day of January, 1826, number 12, to change the congregation of Refugio to the town of Matamoras, or having some like effect. 2d. Of the official letter of the governor of Tamaulipas to the ayuntamiento of Matamoras, dated on or about the day of January, 1826, in regard to the Exidos of Matamoras, or a letter of some like description. 3d. Of the approval by the government of Tamaulipas of the said Exidos, dated on or about the 5th day of February, 1826, or having some like effect. 4th. Of the proceedings in giving notice to the former owners of, and surveying the said Exidos. 5th. A copy of the decree of the congress of Tamaulipas, dated on or about the 13th day of October, 1826, respecting the Exidos of Matamoras. 6th. A copy of an order, dated on or about June 29, 1831, from the Governor of Tamaulipas to the ayuntamiento of Matamoras, directing information to be given respecting the Exidos of Matamoras, and the owners thereof, to present themselves at the capital, or some such like order. 7th. Of the proceedings in obedience to the said order or direction. 8th. Of the old and new constitutions of the State of Tamaulipas. 9th. Of certain laws of the State of Tamaulipas marked "1," "2," "3," "4," "5," "6," "11;" whether or no do the same or any and which of them contain

a true copy or copies of any and what constitutions, laws, decrees, records, archives, or originals, of which the same purport to be copies? Have you, or not, carefully examined and compared the said produced papers or writings, or some, and which of them, with the originals in the archives of the State of Tamaulipas, at Victoria; and if so, when where, and with whom?

Interrogatory fourth. Look at the certificates annexed to the said papers or copies produced to you as above: by whom do the said certificates purport to be given or signed? What authority, if any, have or had the person or persons purporting to sign the same to give said copy or copies at the respective dates thereof? Are or are not the signatures to said certificates respectively genuine, and the handwriting of the person or persons they purport to be? State your means of knowing the same.

Interrogatory fifth. Examine the paper writings produced, and shown to you at this the time of your examination, and marked, respectively, with the letters "AA," "BB," "CF," "LT," "IS," "KP," "ER," and purporting to be copies from the originals in the archives in the State of Tamaulipas, at Victoria, respecting the Exidos of Matamoras. Did you not examine and compare all or any and which of said paper writings last above named, with any and what originals; and where are the said originals properly filed or kept as archives; and when, where, and with whom did you so examine and compare the same; and are they, or any, and which of them, true copies of said originals, respectively? Annex the same to your answer.

Interrogatory sixth. Look at the certificates annexed to the said papers or copies produced to you as last above named. By whom do the said certificates purport to be given or signed? What authority, if any, have or had the persons purporting to sign the same to give said copy or copies at the respective dates thereof? Are, or not, the signatures to said certificates genuine, and the handwriting of the person or persons they purport to be? State your means of knowing the same.

Interrogatory seventh, and last. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or any or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

BASSE & HORD,

Solicitors for defendants, Stillman and Belden.

And afterwards, to wit, on the thirtieth day of October of the same year, defendants filed sets of interrogatories herein, which are in the words and figures following, that is to say:

Interrogatories to D. José Vincente Cuello and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Don José Vincente Cuello, Don Cristoval Montiel, and Don Antonio Canales, of Victoria, in the State of Tamaulipas, witnesses to be produced, sworn, and examined before the judge or tribunal of the said city of Victoria and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a suit therein depending, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, the said suit being number 41 on the chancery docket of said court, on the part of said defendants, Stillman and Belden :

Interrogatory first. Do you know the parties complainants and defendants in this suit above named, or any, and which of them?

Interrogatory second. What office or offices, if any, do you now hold, or have you heretofore held? What is your profession? If you say that you are a lawyer by profession, how long have you been engaged in the study or practice of the laws of Mexico?

Interrogatory third. Please to state what acts were necessary, under the laws of Mexico prevailing in Tamaulipas in the year 1826, on the formation of a town by the congress of Tamaulipas, to vest in the said town a legal and perfect title to its Exidos, where the lands designated as said Exidos were at the time the property of private individuals. State what acts of "appropriation" were necessary by the government, or by the town and its legal authorities, or what acts of *assent* or of *rebeldia* on the part of the said individual owners would have been sufficient in the year 1826 to divest the titles of said individuals and vest the same fully in the town.

Interrogatory fourth. Please to state the effect of the laws of Mexico prevailing in Tamaulipas in the case above stated. If the prior owners of the Exidos lands had been summoned by the government to appear at a given time for the purpose of ascertaining the indemnification to be given for said lands, and they failed or refused to obey the same, would the said Exidos lands belong to the private owners or to the town?

Interrogatory fifth. After a valid appropriation of Exidos lands to a town, had the said town full property and dominion over the lands, or only the usufruct?

Interrogatory sixth, and last. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or any of said parties, or that may

be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

BASSE & HORD,
Solicitors for Defendants, Stillman and Belden.

Interrogatories to Don Manuel Rejon and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Lic. Don Manuel Rejon and to Lic. Don Augustin Manchaca, of Matamoras, in the State of Tamaulipas, witnesses to be produced, sworn, and examined before the judge or tribunal of the said city of Matamoras and State of Tamaulipas, acting under the annexed letter rogatory from the district court of the United States of America for the district of Texas, in a certain cause therein depending, wherein Rafael Garcia Cavazos, and Maria Josefa Cavazos, his wife, and Estafano Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Musina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, said suit being number — on the chancery docket of said court, on the part of the said defendants, Belden and Stillman:

Interrogatory first. Do you know the parties, complainants and defendants, in this suit above named, or any, and which of them?

Interrogatory second. What office or offices, if any, do you now hold, or have you heretofore held? What is your profession? If you say that you are a lawyer by profession, how long have you been engaged in the study or practice of the laws of Mexico?

Interrogatory third. Please to state what acts were necessary, under the laws of Mexico prevailing in Tamaulipas in the year 1826, on the formation of a town by the congress of Tamaulipas, to vest in the said town a legal and perfect title to its exidos, where the lands designated at the time as said exidos were the property of individuals. State what acts of "appropriation" were necessary by the government and by the town or its legal authorities, and what acts of assent or of rebeldia on the part of said original owners would have been sufficient, in the year 1826, to divest the titles of said individual owners and vest the same fully in the town. If any changes have taken place in the law respecting the matters as to which you testify since the year 1826, please state the same, and the time thereof. If there is any common or customary law prevailing in your country and affecting these inquiries, please state the same in your answers.

Interrogatory fourth. Please state the effect of the law of Mexico prevailing in the State of Tamaulipas in the case above stated. If the prior owners of the exidos lands had been summoned by the government to appear at a given time for the purpose of ascertaining the

written copies of such laws be procured? What books or collections contain these laws?

Cross-interrogatory third. Have not the collection of the laws of Spain, known as "Las Siete Partidas," "El Fuero Real," "La Recopilacion Novisima," always had authority as laws and legal force in the administration of justice in Mexico? And have not the laws contained in the "Recopilacion de leyes de los Remos de los Indias" always had the same authority and legal force in Mexico, so far as they are applicable to the condition and present form of government of that country?

Cross-interrogatory fourth. Do not the works or treatises entitled "Febrero Adicionado," or "Febrero Novisimo," or the edition published in Mexico under the title of "Febrero Mexicana," by Topia; "Ilustracion del derecho del Español," by D. Juan Sola; "Diccionario de Legislacion y Jurisprudencia," by D. Joaquin Escriche; "Legislacion Ultramarina," by Zamora, possess authority in Mexico and Tamaulipas; and do they not correctly express or interpret the jurisprudence of Spain and Mexico?

Cross-interrogatory fifth. Is not the State of Tamaulipas, so far as its internal affairs are concerned, sovereign and independent of the general government of the United Mexican States? How long has the State of Tamaulipas existed as a political sovereignty? Has not the congress of the State of Tamaulipas the power of enacting all laws for the government of the State?

Cross-interrogatory sixth. From what sources, what books, or collections, or laws, do you derive your knowledge of the principles of law prevailing in Mexico, to which you refer in your answers to the third and fourth interrogatories of the said defendants? State particularly.

Cross-interrogatory seventh. Do you mean to say, by your answer to the fourth interrogatory of defendants, that under the laws and constitution of Tamaulipas and the United Mexican States, the property of a private citizen can be taken without previous compensation?

Cross-interrogatory eighth. Do you mean to say, by your answer to the fifth interrogatory of the defendants, that a town or city in Mexico can legally sell all or a great part of its exidos, or common lands, to another town or city, or to a private individual residing in a foreign country? For example, can the city of Victoria sell its exidos to the city of Mexico, or to a private individual residing in the city of Zacatecas?

Cross-interrogatory ninth. For what objects or purposes are lands granted to towns or cities in Mexico for exidos or common lands? State particularly.

Cross-interrogatory tenth. Was there not a controversy between the city of Matamoras and D. Rafael Garcia Cavazos, and Doña Maria Josefa Cavazos, his wife, represented by their attorney, D. Juan Treanor, in reference to the lands claimed by the ayuntamiento of the city as "ejidos," on the left bank of the Rio Grande? How was that controversy decided by the congress of the State of Tamaulipas?

lipas? Who advocated the claims of the city of Matamoras before or in the congress?

ALLEN & HALE,
Of Counsel for Complainants.

Cross-interrogatories to D. Manuel Rijon and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

The complainants in the said cause, reserving their right of exception to the direct interrogatories exhibited by Charles Stillman and Samuel A. Belden, propound, on their part, the following cross-interrogatories to D. Manuel Rijon and Lic. D. Augustin Manchaca, of the city of Matamoras and State of Tamaulipas :

Cross-interrogatory first. How long have you resided in the State of Tamaulipas? Where were you born?

Cross-interrogatory second. Are not the laws prevailing in Mexico and the State of Tamaulipas written laws? And cannot printed or written copies of such laws be procured? What books or collections contain these laws?

Cross-interrogatory third. Have not the collection of the laws of Spain," known as "Las Siete Partidas," "El Fuero Real," "La Recopilacion Novisima," always had the authority of laws and legal force in the administration of justice in Mexico? And have not the laws contained in the "Recopilacion de leyes de los Ramos de los Indias" always had the same authority and legal force in Mexico, so far as they are applicable to the condition and present form of government of that country?

Cross-interrogatory fourth. Do not the works and treatises entitled "Febrero Adicionado," or "Febrero Novisima," or the edition printed in Mexico under the title of "Febrero Mexicana," by Topia; "Ilustracion del derecho Español," by D. Juan Sola; "Diccionario de Legislacion y Jurisprudencia," by D. Joaquin Eseriche; "Legislacion Ultramarina," by Zamora, possess authority in Mexico and Tamaulipas; and do they not correctly express or interpret the jurisprudence of Spain and Mexico?

Cross-interrogatory fifth. Is not the State of Tamaulipas, so far as its internal affairs are concerned, sovereign and independent of the general government of the United Mexican States? How long has the State of Tamaulipas existed as a political sovereignty? Has not the congress of the State of Tamaulipas the power of enacting all laws for the government of the State?

Cross-interrogatory sixth. From what sources, what books, collection, or laws, do you derive your knowledge of the principles of law

prevailing in Mexico, to which you refer in your answers to the third and fourth interrogatories of the said defendants? State particularly.

Cross-interrogatory seventh. Do you mean to say, by your answer to the fourth interrogatory of the defendants, that under the laws and constitution of Tamaulipas and the United Mexican States the property of a private citizen can be taken without previous compensation?

Cross-interrogatory eighth. Do you mean to say, by your answer to the fifth interrogatory of the defendants, that a town or city in Mexico can legally sell all or a great part of its "exidos," or common lands, to another town or city, or to a private individual residing in a foreign country? For example, can the city of Victoria sell its ejidos to the city of Mexico, or to a private individual residing in the city of Zacatecas?

Cross-interrogatory ninth. For what objects or purposes are lands granted to towns and cities in Mexico for ejidos or common lands? State particularly.

Cross-interrogatory tenth. Was there not a controversy between the city of Matamoras and D. Rafael Garcia Cavazos, and Doña Maria Josefa Cavazos, his wife, represented by their attorney, D. Juan Treanor, in reference to the lands claimed by the ayuntamiento of that city as "ejidos," on the left bank of the Rio Grande? How was that controversy decided by the congress of the State of Tamaulipas? Who advocated the claims of the city of Matamoras before or in the congress?

Cross-interrogatory eleventh. [To Lic. D. Augustin Menchaca alone.] Were you not deputy in the congress of the State of Tamaulipas from the city of Matamoras at the time of the controversy before mentioned? Did you not defend the claims of the city of Matamoras at that time?

ALLEN & HALE,
Of Counsel for Complainants.

And afterwards, to wit, on the thirty-first day of October of the same year, defendants, by their counsel, filed several sets of interrogatories herein, which are in the words and figures following, that is to say:

Interrogatories to Francis J. Parker and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to Francis J. Parker, John Webb, and Israel B. Bigelow, and each and every of them, all of the county of Cameron and State of Texas, witnesses to be produced, sworn, and examined in a certain cause now pending in chancery in the district court of the United States in and for the district of Texas, wherein Rafael Garcia Cavazos and Maria Josefa Cavazos, his wife,

and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Safen de Tarneva, Ramon Safon, Feliciana de Tigerina, and Josef Manuel Prieto are defendants, on the part of said defendants, Stillman, Belden, and Mussina :

Interrogatory first. Do you know the parties to this cause, or any, and whom of them ?

Interrogatory second. Are you acquainted with the location, situation, and condition of the town of Brownsville, in the county of Cameron ? If yea, how long have you been acquainted with or had any knowledge of said location, condition, and situation ? Who commenced the building or making up of said town of Brownsville, and at or about what time ? Was you acquainted with or did you have any knowledge of the land on which the said town of Brownsville is situated, and the land adjacent thereto, before said town was built or commenced ? If yea, what was the value of the land embraced in and about the town of Brownsville, known as the Ejidos of Matamoras, before the said town was built or commenced or improved ? What was the value of said land in the beginning of the year 1848 ? and what is the full and true value of all the buildings and improvements of every kind and description now being upon the land known as the Ejidos of Matamoras ? Make as correct an estimate as you can of the cost of said buildings and improvements. Who commenced building and making said improvements ?

Interrogatory third. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination on the matters in question in this cause ? If yea, set forth the same fully and at large in your answer.

OVID F. JOHNSON & J. A. SWETT,

*Solicitors for Defendants, Charles Stillman,
Samuel A. Belden, and Jacob Mussina.*

Interrogatories to George W. Smyth.

DISTRICT COURT OF THE UNITED STATES,

District of Texas.

In Chancery.

Interrogatories to be propounded to George W. Smyth, of the county of Travis, a witness to be produced, sworn, and examined in a certain cause now depending in chancery in the district court of the United States in and for the district of Texas, wherein Rafael Garcia Cavazos and his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Safen de Tarneva, Ramon Safon, Feliciana

de Tigerina, and Joseph Manuel Prieto are defendants, on the part of said defendants, Stillman, Belden, and Mussina :

Interrogatory first. Do you know the parties to this cause, or any, and whom of them ?

Interrogatory second. What office do you hold, exercise, and do and perform the duties of under and by authority of the State of Texas; and how long have you held such office, and been occupied in discharging the duties thereof

Interrogatory third. Are you, or not, commissioner of the general land office of the State of Texas? If yea, how long have you been in such office? And are there or are there not in such general land office, and under your control, all or some of the following described certificates, with the surveys and field notes attached and annexed returned therewith, made by George Lyon, deputy surveyor for the land or surveyor's district of San Patricio and Nueces: first, a certificate of David Snively, numbered 39, issued by the board of land commissioners for the county of Refugio, for three hundred and twenty acres of land; second, certificate numbered one hundred and eleven, issued by the board of land commissioners for the county of Victoria, to J. W. B. McFarland, for one-third of a league of land; also, a certificate issued by the board of land commissioners for the county of Nueces, numbered 36, and for 1,280 acres of land, to Estevan Villreal; also, a certificate or land warrant, issued by the commissioners of the general land office, to Jacob Snively, numbered , for nine hundred and sixty acres of land; also, a certificate, issued by the board of land commissioners of the county of Nueces, numbered 18, to Sabas Medrano, for 640 acres of land? And are or are there not in your said office field notes, plats, and surveys, or evidences of surveys, made on some or all of the aforementioned certificates, and purporting to have been made on any land or lands near or adjoining or including the town of Brownsville, in the months of October, November, or December, of the year 1848, or at some other and what time, by George Lyon, deputy surveyor for said land or surveyor's district of San Patricio and Nueces? If any such certificates or certificate are to be found in your office, together with said field notes, plats, or evidences of survey, please attach the same to your answer, if you can do so; if you cannot, then attach copies thereof as far as in your power; and if you can do neither, then state the reason why you cannot do so.

Interrogatory fourth, and last. Do you know, or can you set forth, any other thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set it forth fully and at large in your answer.

OVID F. JOHNSON & J. A. SWETT,

*Solicitors for Def'ts, Chs. Stillman, Sam'l A. Belden,
and Jacob Mussina.*

Interrogatory to George Lyon.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded and administered to George Lyon, of the county of Cameron, a witness to be produced, sworn, and examined in a certain cause now depending in chancery in the district court of the United States in and for the district of Texas, wherein Rafael Garcia Cavazos and his wife, and Estafana Goseascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said defendants, Belden, Stillman, and Mussina:

Interrogatory first. Do you know the parties to this cause, or any, and whom of them?

Interrogatory second. Who was the surveyor of the land or surveyor's district of San Patricio and Nueces during the year 1848, and who was such surveyor in the months of November and December of the year 1848?

Interrogatory third. Who was deputy surveyor in and for said land or surveyor's district during said year 1848, and especially during said months of November and December in said year. Was or was you not such deputy surveyor, and acting as such deputy surveyor in said district of San Patricio and Nueces at said time or a portion thereof? If yea, what portion, and who was the surveyor during said time, and where is he, said surveyor, now?

Interrogatory fourth. Was or was not the county of Cameron embraced in said district of Nueces and San Patricio at the time mentioned in foregoing interrogatories? State what your relation is and has been to the surveyor of the land district embracing the county of Cameron, and what office have you held, whether as surveyor or deputy surveyor, and during what time have you held any such office in said district?

Interrogatory fifth. What do you know in relation to any surveys made at or near the town site of Brownsville, by virtue of any land certificates issued under and by authority of the State of Texas, or late republic of Texas, for any one or more of the parties to this suit at any time during the year 1848, and particularly in the months of November and December of said year, or at any other time? If any such surveys were made, for whom were such surveys made? Have you seen or do you know where the field notes made in consequence of said survey or surveys are? If any such survey or surveys were made, by whom, and what officer were they so made? What lands were so surveyed, and by virtue of what certificate or certificates? Describe them as accurately as you can; attach said field notes and certificates, or any of them, to your answer to this inter-

rogatory, with proper marks and references to identify the same, if in your power ; if you cannot attach and produce said field notes and certificates, state the reason why, and attach copies duly certified of the same as far as you can.

Interrogatory sixth. Was or was you not a deputy surveyor, and acting as such in and for said district of Nueces and San Patricio, in the year A. D. 1848, and particularly in the months of October, November, and December in said year? And did or did you not make certain surveys as such deputy surveyor for Charles Stillman, one of these defendants, by virtue of certain certificates or certificate issued either by or under the authority of the State or late republic of Texas, of and upon a portion of the land in controversy in this suit? Describe said land so surveyed, and attach and annex said certificates and field notes if in your power so to do. If you cannot annex the originals, state the reason why, and annex certified copies of said certificates and field notes, or describe the same as accurately as you can. State the number of said certificates, and the quantity of land embraced in each, and when said surveys were so made, if made at all.

Interrogatory seventh. Do you know whether or not any surveys were made in the year 1848, or at any previous time for defendant, Charles Stillman, or any of the other defendants herein, under any certificates or certificate issued under the law of Texas, of or upon any portion of the land in controversy in this suit? If yea, of what lands? By what authority were such survey or surveys made? For whom, and at what time? Set forth the original field notes, if you have them ; if you cannot, you will please annex certified copies of them. Annex all certificates in your possession, or state why you cannot do so, and give an accurate description of them. State your means of information.

Interrogatory eighth. What is your calling or profession? Are you or are you not a surveyor? If yea, how long have you followed surveying of land or been a surveyor?

Interrogatory ninth. How far is the town site of the city or town of Brownsville from the plaza or public square of the city of Matamoras? and how much land on the east side of the Rio Grande would be embraced or included in the four leagues of land surrounding and next adjoining the city of Matamoras, taking the plaza or public square thereof as the place of beginning, and what are your means of information? Have you ever surveyed or run any line or lines from the plaza or public square of Matamoras across the Rio Grande and on the east side thereof? If yea, for what purpose?

Interrogatory tenth, and last. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

OVID F. JOHNSON,

J. A. SWETT,

*Solicitors for Defendants, Charles Stillman,
Samuel A. Belden, and Jacob Mussina.*

And afterwards, to wit, on the same day and year, the complainants by their counsel filed cross-interrogatories herein, which are in the words and figures following, that is to say :

Cross-interrogatories to Francis J. Parker and others.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

The complainants, reserving the right of exception to the direct interrogatories propounded by Charles Stillman, Samuel A. Belden, and Jacob Mussina, three of the defendants in the above entitled cause, proposed, on their part, the following cross-interrogatories to Francis A. Parker, John Webb, and Israel B. Bigelow :

Cross-interrogatory first. When was the house first built for any of the defendants put upon the town site of Brownsville ? State particularly the date of the commencement and completion. How many houses, what other improvements, and of what respective value had Charles Stillman, or Samuel A. Belden, or Jacob Mussina, caused to be built for themselves before the 2d October, 1848 ? Which of these houses or other improvements did they own on the 12th of January, 1849 ? State particularly.

Cross-interrogatory second. By what principles, or views, or modes of estimating do you form your opinion of the value of the land embraced within what is termed the ejidos of the city of Matamoras ? State particularly. How much land is embraced within the said "ejidos" ? What are its supposed boundaries, and for what reasons do you fix them as you do ? Is not the city of Matamoras within said "ejidos," and how far from the supposed exterior boundaries ?

Cross-interrogatory third. How far is Brownsville from Matamoras ? How far from Point Isabel and the mouth of the Rio Grande ? Is not the chief custom-house on the Mexican side of the Rio Grande, at Matamoras ? What was its income or gross revenue before the war with the United States ? What is it now ?

Cross-interrogatory fourth. What is the gross value of goods passing through Brownsville for the Mexican market ? Of what do they consist generally ; where manufactured ? What is the gross value of all exports into Mexico through the Point Isabel collection district ? What is the gross value of imports from Mexico into that district, including those which do not pass through the custom-houses, and including specie ?

Cross-interrogatory fifth. Is there not a military post of the army of the United States at Fort Brown, immediately adjoining Brownsville ? When was it first established there ? How many troops are usually stationed there ? What houses or other improvements have

been put up there by the officers of the government of the United States, and of what total value? What would, in your opinion, be a fair price to ask of the government of the United States for the land occupied by the post, if there was no dispute as to the title?

Cross-interrogatory sixth. Did you never hear of an old Spanish grant made to D. José Salvador de la Garza, in 1781, for a tract of land between the Rio Grande and the Arroyo Colorado, called the Esperitu Santo grant? If you did, when did you first hear anything about it, and what?

Cross-interrogatory seventh. How long has Charles Stillman resided in Matamoras, and done business there as a merchant? When did he remove to this side of the river permanently? How long has Samuel A. Belden done business in the city of Matamoras as a merchant? Is not Simon Mussina the brother and agent of Jacob Mussina, the defendant in this suit? How long has Simon Mussina been residing in and about the city of Matamoras, and accustomed to visit that city? Was he not intimately acquainted with D. Constantino Tarneva and his wife, Doña Angela Garcia, and other members of that family? and did he not carry on some negotiations for lands with that family?

Cross-interrogatory eighth. Do not Charles Stillman, Samuel A. Belden, and Simon Mussina read the Spanish language? Do they not converse in it, and understand when spoken? Is not, or was not, Simon Mussina editor of a newspaper published in Brownsville, under the name of "The American Flag and Cameron County Advertiser," or some other such name? When did he commence to edit such paper, or any paper in Matamoras, or on the American side of the river?

Cross-interrogatory ninth. When was Robert H. Hord first engaged or acting as the agent or attorney and legal adviser of any of the defendants?

Cross-interrogatory tenth. If you state the value of the buildings and other improvements on the town site of Brownsville, state *when* each building, separately, was put up, *by whom*, and *for whom*; whose property it was on the 12th day of January, 1849, and of what value it was on that day. Distinguish between those put up before that day and afterwards; and state particularly to whom the same then belonged; and if there were other improvements besides buildings, state when they were each made, and for whom.

Cross-interrogatory eleventh. What is the value or price, according to the scale of prices, asked by Messrs. Stillman, Belden, and Mussina, of each lot on which buildings or other improvements have been put up? State specifically. What is the value of all the land within the so-called ejidos on this side of the river, if laid out into lots, according to said scale of prices? What would be the value of said land, if the title thereto was undisputed?

Cross-interrogatory twelfth. How many lots within the town site of Brownsville have been sold, or contracted to be sold, by Messrs.

Stillman, Belden and Mussina, and of what gross value? How much in cash or notes have they received therefor?

ALLEN & HALE,
Of Counsel for Complainants.

Cross-interrogatories to George W. Smyth.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

The complainants in the above entitled cause, reserving their objections to the interrogatories propounded by Charles Stillman, Samuel A. Belden, and Jacob Mussina, three of the defendants, propound, on their part, the following cross-interrogatories to George W. Smyth, of the county of Travis :

Cross-interrogatory first. Did not Mr. John or Juan Treanor, about the 18th of December, 1848, present to you, to be filed in the general land office of the State of Texas, a document purporting to be a testimonio of title to about sixty leagues of land, on the left bank of the Rio Rrande, granted in 1781 to D. José Salvador de la Garza, and what answer did you make to him respecting this application? Did you not refuse to receive said testimonio for registration, and why? Were you not then commissioner of said general land office?

Cross-interrogatory second. Did you not receive a *caveat* from William G. Hale, as attorney of some of the Mexican owners of said tract of land, warning you not to issue patents or receive field notes of surveys made on said tract under color of headright certificates? If so, annex a copy of said *caveat* to your answer, and state when you received it.

EBN. ALLEN & WM. G. HALE.
Of Counsel for Complainants.

Cross-interrogatories to George Lyon.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

The complainants in the above entitled cause, reserving their right of exception to the direct interrogatories propounded by Charles Stillman, Samuel A. Belden, and Jacob Mussina, three of the defendants, propound, on their part, the following cross-interrogatories to George Lyon, of the county of Cameron :

Cross-interrogatory first. If, in answer to any of the direct interrogatories, you state that you made any surveys on headright certificates in or near the present town site of Brownsville for any of the defendants, or made any such surveys, under which the said defendants or any of them now claim title, state exactly the time when they were so made by you, so nearly as you can recollect. Who directed or requested you to make them? Who paid you your fees for making them? Who received the original field notes from you?

Cross-interrogatory second. Are you acquainted with a tract of land said to have been granted in 1781 to D. José Salvador de la Garza, called Agostadero or Potrero del Esperitu Santo, or any such tract? Does it not front on the Rio Grande, above and below, for some leagues, a point opposite to the city of Matamoras? And does it not run back to the Arroyo Colorado? Would not its exterior boundaries, if surveyed in accordance with the grant, include the present town site of Brownsville and the adjacent lands? If not, what land would they include?

Cross-interrogatory third. When did you first hear of this grant? Did you not survey it for its owners, or some of them? When did you so survey it? Who desired you to survey it? Who paid your fees for so doing?

Cross-interrogatory fourth. Were you not aware of the existence of this grant, and what did you know, or what had you heard about it before making the surveys on the headright certificates? Who had told you anything about it, and what?

Cross-interrogatory fifth. How long have Charles Stillman, Samuel A. Belden, Patrick C. Shannon, and Simon Mussina resided in or near the city of Matamoras? What relation is Simon Mussina generally reported to be to Jacob Mussina, defendant in this suit?

Cross-interrogatory sixth. Where is the land claimed by Patrick C. Shannon, on this side of the Rio Grande? What town site has he laid out on it? Is it not within a league, Mexican measure, from the city of Matamoras?

Cross-interrogatory seventh. Have not Charles Stillman, Samuel A. Belden, and Jacob Mussina laid out a town site, called Brownsville, on this side of the Rio Grande? How far is it from Matamoras, and in what direction? Who surveyed and run off the streets and lots for them? If it was yourself, did they pay you your fees for this work, and are they not still indebted to you for a portion of the same?

Cross-interrogatory eighth. In what direction, and how far from the city of Matamoras, are the several places called Rancho Viejo, Mesquite, Santa Rita, Santa Rosalie, Rancho de los Indias, San Juan del Retiro, El Tanque, El Puerto?

Cross-interrogatory ninth. How far above the present town site of Brownsville did you commence your survey of the Esperitu Santo grant, on the Rio Grande? How far below that point does Doña Estafana Gozeascochea reside? How long has she been living there?

Cross-interrogatory tenth. In running your line from the main plaza of the city of Matamoras to determine the quantity of land embraced

in the four leagues about the said city, what direction or course did you take? Was it magnetic or true? On what principle did you make the survey of the part of the four leagues said to be on this side of the Rio Grande? Annex a sketch of such survey.

Cross-interrogatory eleventh. Has not Robert H. Hord been acting as attorney for Don Manuel Prieto, Doña Feliciana Gozeascochea de Tigerina, and for some time also for Don Constantino Tarneva, and his wife, Doña Angela Garcia? Was he not acting as their attorney and legal adviser in reference to the Esperitu Santo grant, in June, 1848? If not, when did he begin to act as their attorney, &c., or the attorney and legal adviser of any one of them?

Cross-interrogatory twelfth. Was not Robert H. Hord acting as attorney of Charles Stillman and Samuel A. Belden, or one of them, in reference to the town site of Brownsville, in June, 1848, or shortly before or after, and was he not acting as their agent in selling lots in said town site to purchasers, and when first?

ALLEN & HALE,
Of Counsel for Complainants.

And afterwards, to wit, on the same day and year, there issued from the clerk's office of our said court, letters rogatory addressed to the authorities of the city of Matamoras, which are in the words and figures following, that is to say :

Ciudad de Matamoras.

[Accompanying interrogatories to Doña Maria Jacinto Olivares, D. Marcial Flores, D. Jesus de Abrigo, D. Tomas Guerra y D. Dominga Guerra.]

UNITED STATES OF AMERICA,
District of Texas.

In Chancery.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Matamoras, or in the State of Tamaulipas, in the United Mexican States, greeting :

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciana de Tigerina, and Josef Manuel Prieto are defendants, and it has been suggested to us that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, to the several interrogatories and cross-interrogatories hereunto annexed; and that you will cause their depositions to be committed to writing and delivered, under cover duly closed and sealed up, to the person who may present this letter, in order that he may bring them to our said court, and we shall always be ready and willing to do the same for you in a similar case when required.

Witness the honorable John C. Watrous, judge of the district court of the United States of America for the district of Texas, at [L. S.] the city of Galveston, on the thirty-first day of October, in the year one thousand eight hundred and fifty.

JAMES LOVE, *Clerk.*

Ciudad de Matamoras.

[Accompanying interrogatories to D. Joaquin Argüelles.]

UNITED STATES OF AMERICA,
District of Texas.

In Chancery.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Matamoras, or in the State of Tamaulipas, in the United Mexican States, greeting:

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, and it has been suggested to us that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties:

We therefore request you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, to the several interrogatories and cross-interrogatories hereunto annexed; and that you will cause the said depositions to be committed to writing and delivered,

under cover duly closed and sealed up, together with the said interrogatories and these presents, to the person who may present this letter, in order that he may bring them to our said court, and we shall always be ready and willing to do the same for you in a similar case when required.

Witness the honorable John C. Watrous, judge of the district court of the United States of America for the district of Texas, at [L. s.] the city of Galveston, on the thirty-first day of October, in the year one thousand eight hundred and fifty.

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA,
District of Texas.

In Chancery.

The President of the United States of America to any judge or tribunal having jurisdiction of civil causes in the city of Matamoras, or in the State of Tamaulipas, in the United Mexican States, greeting :

Whereas a certain suit is pending in our district court for the district of Texas, in which Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are plaintiffs, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Manuel Prieto are defendants, and it has been suggested to us that there are witnesses residing within your jurisdiction without whose testimony justice cannot be completely done between the parties :

We therefore command you that, in furtherance of justice, you will, by the proper and usual process of your court, cause such witness or witnesses as shall be named to you on the part of the said plaintiffs to appear before you, or some competent person by you for that purpose appointed and authorized, at a precise time and place by you to be fixed, and there to answer, on their oaths, to the several interrogatories and cross-interrogatories hereunto annexed ; and that you will cause the said depositions to be committed to writing, and delivered under cover, duly closed and sealed up, together with the said interrogatories and these presents, to the person who may present this letter, in order that he may bring them to our said court, and we shall always be ready and willing to do the same for you in a similar case when required.

Witness the Hon. John C. Watrous, judge of the district court of the United States of America for the district of Texas, at the city of Galveston, on the thirty-first day of October, in the year one thousand eight hundred and fifty.

[L. s.]

JAMES LOVE, *Clerk.*

And afterwards, to wit, on the eighth day of November of the

same year, an agreement was filed herein between the solicitors of the parties, which is in the words and figures following, that is to say :

Agreement.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }

vs.

CHARLES STILLMAN and others. }

The counsel for the complainants, and Charles Stillman and Samuel A. Belden, agree to set the above entitled cause for hearing on the 20th day of January, 1851; and if the term of the court has then closed, they agree that the judge may hear and decide the cause in vacation on the above entitled day, provided the other defendants also agree thereto; but if the other defendants do not agree to have the cause heard in vacation, then the counsel for the above named parties agree that the cause shall be set for hearing and heard as the last cause on the docket during the regular term of the court next ensuing, in case the said term closes before the 20th day of January next.

ALLEN & HALE,

Of Counsel for Complainants.

BASSE & HORD,

Of Counsel for Defendants, Charles Stillman

and Samuel A. Belden.

JOHNSON & SWETT,

For all the Defendants represented by us.

And afterwards, to wit, on the sixteenth day of January, in the year of our Lord one thousand eight hundred and fifty-one, the complainants, by their attorneys, filed a motion herein, which is in the words and figures following, that is to say :

Motion.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }

vs.

CHARLES STILLMAN and others. }

Ebenezer Allen and William G. Hale, of counsel for the complainants in the above entitled cause, referring to the different orders of the court herein, and to the agreements of the parties on file, move this honorable court to order that the depositions from the court of the first instance of the city of Matamoras, returned and filed in court in this cause, be opened by the clerk or any of his deputies.

EBN. ALLEN & WM. G. HALE,

Of Counsel for Complainants.

And afterwards, to wit, on the 18th day of January of the same year, Jacob Mussina, by his attorney, filed a motion herein, which is in the words and figures following, that is to say :

Motion.

UNITED STATES DISTRICT COURT,
District and State of Texas.

In Chancery.

CAVAZOS *et al.*, complainants, }
vs. } No. 41.
STILLMAN *et al.*, defendants. }

In the above entitled cause, Jacob Mussina, one of the defendants, moves the court that the complainants' bill, as amended, be dismissed at the hearing with costs, and he assigns the following grounds in support of his motion as a part thereof, to wit :

First. That it is apparent from the pleadings, papers, and record of said cause, that the court has not and cannot have jurisdiction thereof for want of necessary and proper parties.

Second. That the agreement or consent, order entered of record before this defendant was in court, whereby part of the complainants were made defendants, &c., &c., is not enforceable for want of jurisdiction.

Third. That it is apparent that there is no equity in the bill as amended.

Fourth. That it appears that a guardian *ad litem* cannot be appointed for Ramon Safen, a non-resident alien infant, who is shown by the bill as amended to be a necessary and proper party defendant, and who is not and never has been in court.

And this defendant, relying on various other grounds apparent from the pleadings, papers, and record of said cause, to which, together with such affidavits and other papers as he may deem proper to file on or before the hearing thereof, he refers in support of his motion, files and docket the same for the adjudication of the court.

JACOB MUSSINA,

Per ALEXANDER & ATCHISON,

Filed January 18, 1851.

Of his Solicitors.

And afterwards, to wit, on the twenty-first day of January of the same year, the court here made an order in this cause, which is in the words and figures following, that is to say :

Order of Court.

RAFAEL GARCIA CAVAZOS *et al.* }
vs. }
CHARLES STILLMAN *et al.* }

On this day came the plaintiffs, by their solicitors, Allen and Hale, and the motion filed by complainants on the 16th day of January, 1851, came on to be heard, and the court being now fully advised, it is ordered that the motion be granted.

And afterwards, to wit, on the twenty-seventh day of January of the same year, the court here made an order in this cause, which is in the words and figures following, that is to say :

Order of Court.

RAFAEL GARCIA CAVAZOS *et al.* }
vs.
 CHARLES STILLMAN *et al.* }

On motion of W. P. Ballinger, esq., it is ordered that the solicitors herein have leave to take out of the clerk's office such of the papers in the above entitled cause as they may require for examination, leaving a receipt with the clerk therefor, in which the papers so taken out shall be specifically named and described.

And afterwards, to wit, on the 28th day of January of the same year, W. P. Ballinger, of counsel for defendants, filed a motion herein, which is in the following words and figures, that is to say :

Motion.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.
 In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

William P. Ballinger, of counsel for Charles Stillman and Samuel A. Belden, two of the defendants in the above entitled cause, referring to the different orders herein, and to the agreements of the parties on file, move this honorable court to order that the depositions from the court of the first instance of the city of Matamoras, returned and filed in court in this cause, be opened by the clerk or any of his deputies.

W. P. BALLINGER,
Of Counsel for Defendants.

And afterwards, to wit, on the twenty-ninth day of January of the same year, an agreement was made herein, which is in the words and figures following, that is to say :

Agreement.

UNITED STATES OF AMERICA,
District of Texas.
 In Equity.

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

In this case it is agreed that the testimony taken and returned to the court may be opened, and publication thereof made by the clerk, or any one of his deputies, on application of either party, and this agreement shall extend and apply to all testimony that may be taken, and so returned at any time before the hearing of said cause.

ALLEN & HALE,
Solicitors for Complainants.

JOHNSON & SWETT,
Solicitors for Def'ts, Stillman, Belden, and Mussina, &c.

It is hereby ordered that the publication of the testimony referred to be made as above stated.

JOHN C. WATROUS,
United States Judge.

JANUARY 29, 1851.

And afterwards, to wit, at the February rules of said court, an entry was made, in the words and figures following, that is to say :

Rule.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others.

The complainants in this cause, by Ebenezer Allen & William G. Hale, in accordance with an understanding had to that effect with the late Major General Worth, in respect to W. W. Chapman, quartermaster at Fort Brown, and with Rice Garland, his solicitor, in respect to Richard Fitzpatrick, dismiss their original and amended bill of complaint in this cause as to the said Chapman and Fitzpatrick only, provided that such dismissal be without prejudice to their said bills as to the other defendants thereto, and without prejudice also to the commencing of other proceedings against the said Chapman and Fitzpatrick, if the same be found to be necessary.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Complainants.

FEBRUARY 1, 1851.

And afterwards, to wit, on the fourth day of February of the same year, on motion of complainants' counsel, the court here made an order in this cause, which is in the words and figures following, that is to say :

Order of Court.

DON RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others.

Upon motion of counsel for the complainants in this cause, and upon the representation of the clerk of this court, it is ordered by the court that the order made in this cause on the 27th day of January last be set aside, and that the privilege thereby allowed be suspended.

And afterwards, to wit, on the twenty-sixth day of February of the same year, was filed herein the amended answer of Samuel A. Belden, to take effect at a previous date before the filing of complainants' replication, as appears by file mark, which said document is in the words and figures following, that is to say :

Amended answer of Samuel A. Belden.

THE UNITED STATES OF AMERICA,

District of Texas.

In Chancery.

DON RAFAEL GARCIA CAVAZOS, DOÑA MARIA JOSEFA CAVAZOS, his wife, and DOÑA ESTAFANA GOZEASCOCHEA DE CORTINA, compl'ts,

against

CHARLES STILLMAN, SAMUEL A. BELDEN, JACOB MUSSINA, RICHARD FITZPATRICK, W. W. CHAPMAN, PATRICK C. SHANNON, DOÑA ANGELA GARCIA SAFEN DE TARNEVA, DON RAMON SAFEN, DOÑA FELICIANA DE TIGERINA, and DON MANUEL PRIETO, defendants.

This defendant, Samuel A. Belden, under the rules of this honorable court, adopted and prescribed by the Supreme Court of the United States for the regulation and practice of the circuit courts of the United States in chancery, and by leave of the court first had and obtained, amends his answer by making therein, and in all subsequent proceedings, the following corrections, and by filling up the following blanks in said answer.

First. The said Belden, defendant, amends his answer on the third page (3d) thereof, and immediately after the word "located," by striking out all on said 3d page after the word "located," on the 17th line of said page, and inserting the following words: On the eighth day of January, A. D. 1847, for David Snively, under and by virtue of a headright certificate granted to Henry Hudson for seventy-six labors of land; said location to begin two hundred varas below "Fort Brown," on the east bank of the Rio Grande, thence to run up said river for legal front and back for quantity. Also, six hundred and forty acres donation, *HH*, to begin at the upper corner of the location made for Henry Hudson, to run up the Rio Grande and back for quantity. And afterwards, to wit, on the seventeenth (17th) day of August, A. D. 1847, the said David Snively directed the surveyor of the land district of Nueces and San Patricio, said land district then embracing all the land in controversy in the suit, to apply a league and labor granted to James Taylor upon the location, in place of Henry Hudson's certificate for the twenty-six labors above described, the said David Snively then and thereby substituting the said certificate, granted to James Taylor under the authority of the republic of Texas, in the place and stead of the certificate of said Hudson, as he, the said Snively, lawfully had a right to do. And also, on the 20th day of March, 1847, the said David Snively made the following locations: *First*, one of three hundred and twenty acres of land under a good and valid land warrant issued to James St. John, said location commencing one hundred yards below "Ft. Brown," on the Rio Grande, running down the river for front and back for quantity; *second*, one other good and valid land warrant for other three hundred and twenty acres of land issued to James St. John, beginning at the lower line of the survey and location last above named, and running down the river and back for quantity. Also, the said David Snively did, on the day and year last aforesaid, make one other location under certificate No. , to begin at James

St. John's lower corner of the location last aforesaid on the Rio Grande, running down said river for front and back for quantity. And also the said David Snively did, on the day and year last aforesaid, make a location for and of three hundred and twenty acres of land, under a good and valid certificate issued to James Fox, beginning at the lower corner of location made for J. Black, by virtue of certificate number , on the Rio Grande, running down the river for front and back for quantity. And on the 25th day of April, A. D. 1848, the said David Snively made the following other locations: one under certificate No. 111, issued to J. W. B. McFarland, issued by the board of land commissioners for the county of Victoria, one league of land, to begin at the lower corner of a survey made for J. Baxter, opposite Matamoras, on the Rio Grande, to run down said river for front and back for quantity; also, another location of and for three hundred and twenty acres of land, to begin at the lower corner of a location made for and under a location made by virtue of said certificate above described, issued to J. W. B. McFarland on certificate No. 111, to run down said river for front and back for quantity. Also, another location for six hundred and forty acres of land under and by virtue of donation warrant No. 1140, to begin at David Snively's lower corner, to run down said Rio Grande for front and back for quantity. Also, another location under land warrant valid in law for nine hundred and sixty acres of land, issued to J. W. B. McFarland, to begin at the lower corner of location under certificate No. 1140, to run down said Rio Grande for front and back for quantity. Also, another location for six hundred and forty acres under certificate number 1140, issued to J. Curting, to begin at the lower corner of No. 310, a location made for J. W. B. McFarland, to run down said Rio Grande for front and back for quantity. All of which said certificates and locations made as aforesaid under them, and all rights arising under and by virtue of said certificates and locations to such lands so located, were duly, legally, and validly assigned to the rightful holder and owners thereof; to Charles Stillman, one of the defendants in this case, to the extent of one league and one labor of land, embracing the present town site of Brownsville. And afterwards, to wit, on the 7th day of November, A. D. 1848, for greater security and certainty in securing the just rights of said defendant, Charles Stillman, he, the said Charles, located and caused to be located the following described certificates, a copy of which said locations was and is in the words, terms, and figures following: "Charles Stillman makes application for the following certificates and land warrants, to be located on the Rio Grande, in the county of Cameron: certificate No. 36 for 1,280 acres of land, issued to Estevan Villareal by the board of land commissioners of the county of Nueces, to begin at the lower corner of location made by David Snively on the left bank of the Rio Grande, on certificate No. 39, for 320 acres, issued by the board of land commissioners of the county of Nueces, to run down for front and back for quantity, according to law; also, certificate No. 18 for six hundred and forty acres, issued to Sabas Medrano by the board of land commissioners of the county of Nueces, to begin at the lower corner of certificate No. 36, for 1,280 acres, to run down for front and

back for quantity, according to law; also balance of land warrant No. $\frac{532}{832}$, issued to Jacob Snively by the commissioners of the general land office for 960 acres on the 6th of April, 1847, to begin at the lower corner of No. 36, to run down for front and back for quantity, according to law. Corpus Christi, November 7, 1848.

“CHARLES STILLMAN.”

And the said defendant, Samuel A. Belden, further says: That on the sixth day of November, A. D. 1849, a survey was made for the said defendant, Charles Stillman, who was the assignee of David Snively, who was the assignee of J. W. B. McFarlane under headright certificate No. 111, which said survey is set forth more at length and with greater certainty and particularity in and by a certain paper exhibit filed in this cause, marked *F*, and is now filed with and made a part of the testimony of Felix A. Blucher in this cause; and that on the 8th day of November, A. D. 1848, another survey was made by the said Charles Stillman, assignee of David Snively, assignee of certificate No. 39, issued by the board of land commissioners for Nueces county on the 3d day of January, A. D. 1848, and which for greater certainty Exhibit *G*, attached to Exhibit *F*, is referred to. And that on the 1st day of December, 1848, another survey was made for the said Charles Stillman, assignee of J. Snively, for 960 acres of land under land warrant issued by the commissioners of the general land office of the State of Texas, on the 6th day of April, 1847; and that, on the 22d of November, 1848, another survey was made for the said Charles Stillman, who was assignee of David Snively, who was assignee of Sabas Medrano, for 640 acres of land under certificate No. 18, issued by the board of land commissioners for the county of Nueces, on the 10th of January, A. D. 1848, which said survey is set forth at length and with greater certainty and particularity in and by a certain paper exhibit filed in this cause, marked *H*, and is now filed with and made a part of the testimony of Felix A. Blucher in this cause; and that, on the 27th day of November, A. D. 1848, another survey was made for the said Charles Stillman, who was the assignee of David Snively, who was the assignee of Estevan Villareal, for 1,280 acres of land under and by virtue of certificate No. 36, issued by the board of land commissioners for the county of Nueces, on the 31st of January, 1848, which said survey is set forth more at length and with greater certainty and particularity in and by a certain paper exhibit filed in this cause, marked “Copy,” and attached to the last named preceding exhibit, and now filed with and made a part of the testimony of Felix A. Blucher in this cause. And afterwards, on or about the 15th day of August, A. D. 1848, the said defendant, Charles Stillman, was the holder, owner, transferee, and legal assignee of the following named and described certificates: *First*. The certificate to John Chubb, number 398, 4th class, issued by the board of land commissioners of Galveston county, for three hundred and twenty acres of land. *Second*. The certificate to Francisco Guzman for 640 acres of land, issued by the board of land commissioners of Bexar county, and numbered 458, 2d class. *Third*. The certificate to Michael Judd

for 640 acres of land, issued by the board of land commissioners of Galveston county, numbered 251, 2d class. *Fourth.* The certificate to Juan Rodriguez Monte Mayor for 640 acres of land, and numbered 388, 2d class, and issued by the board of land commissioners of the county of Bexar. *Fifth.* The certificate to Antonio ——— for 320 acres, issued by the board of land commissioners of the county of Bexar, and numbered 295, 4th class. *Sixth.* The certificate to Francis Bartolomis for 640 acres of land, issued by the board of land commissioners of Galveston county, and numbered 136, 4th class. *Seventh.* The certificate to John B. Fox for one-third of a league of land, numbered 846, and issued by the board of land commissioners of the county of Harris, 2d class. *Eighth.* The certificate to Henry H. Wheeler for 640 acres of land, issued by the board of land commissioners of the county of Montgomery, numbered 79, 4th class. *Ninth.* The certificate issued to Henry H. Wheeler by the board of land commissioners of the county of Grimes, and numbered 15, 4th class. And that the said Charles Stillman, for greater security of his rights, did, on the said fifteenth day of August, A. D. 1848, cause all and each of the last named nine certificates to be located upon the league of land embracing the whole and entire site of the town of "Brownsville," which locations will appear more at length and with greater certainty by reference to exhibits marked *A* and *B*, and are attached to and are on file with the testimony of Felix A. Blucher in this cause; and also copies of all and each of the above named certificates are attached to said testimony of said Blucher, *G*, *D*, and *E*, and are referred to as exhibits in this amended answer.

And the said defendant further says: That one league and labor of land, embracing all entire the site of the town of Brownsville, opposite Matamoras, is their own property, (that is, of this defendant and his co-defendants,) and that the certificates, locations, and the surveys made under them were all lawful and valid, and were and are authorized and permitted by the law of the land.

Second Amendment.

On the fourth page of said answer, on the 17th line of said page, and immediately after the word "of" in said 16th line of said page, insert the following words, that is to say: "Four leagues of land nearest, around, and immediately adjoining the said town of Matamoras, taking the public plaza of said town as the point of beginning. And this respondent, further answering, says: That *four thousand six hundred and fifty-four* acres, being part of said four leagues of land so dedicated, given and appropriated to said town of Matamoras, were and are situated on the east side of the Rio Grande, and opposite the town of Matamoras, which said quantity last named of four thousand six hundred and fifty-four acres embraces the whole town site of the present town of Brownsville, and all lands known as the Ejidos of Matamoras, on said east side of said Rio Grande, in and adjacent to said town site of Brownsville.

Third Amendment.

On the sixth page of the answer of Samuel A. Belden, and in the

5th line of said page, immediately after the words "as follows," insert the following words: "commencing at a point on the east bank of the Rio Grande, which is 4,845 varas from the centre of the public plaza of the city of Matamoras, and which point bears from the centre of said plaza north $82^{\circ} 30'$ east, running thence north 4,600 varas; thence west 7,760 varas to a point where said line strikes the east bank of the Rio Grande; thence eastwardly, with the meanders of said Rio Grande, to the place of beginning.

Fourth Amendment.

On the seventh page of said answer, and on the eighth line of said page, and immediately after the words "among others to" on said 8th line, insert the following words, that is to say: "To Manuel Vela one labor, on the 25th day of May, 1839, who transferred said labor to Charles Stillman, one of the respondents, on the 6th day of December, 1848. Also, to Agapeta Vela one other labor of said land, on the day of , 18 , and which said labor of land was transferred and conveyed to Charles Stillman on the said 6th day of December, 1848; also, that one Santes Yebano had and occupied as his own another labor of land prior to November, 1834, and which was by said Santos transferred and conveyed to Encarnacion Trevina in , and was transferred and conveyed by said Trevino to Dorotero Zamora, in 1843, and which said transfer and conveyance was confirmed and ratified by deed dated 10th day of January, 1849, and which said labor was transferred and conveyed from Zamora to Charles Stillman aforesaid, on the 6th day of December, 1848, by deed of that date. Also, one other labor of land was on the day of , 18 , was to Juan Treanor granted, transferred, and conveyed, and was surrendered by said Juan Treanor on the 24th day of August, 1842, to Antonio Longoria as syndic, together with other property of said Treanor, for the purposes of being held by the said syndic for the benefit of the creditors of said Treanor. And in pursuance of said surrender, and by virtue of his powers as syndic as aforesaid, the said Antonio Longoria on the 15th day of December, A. D. 1848, before Joaquin Arguelles and his assisting witnesses, a notary public in and for the city of Matamoras, in the republic of Mexico, executed a transfer or act of sale of said last named tract of land to Jacob Mussina for a good and valuable consideration, which said tract contained and contains about 170 acres. This labor was purchased as aforesaid and hereinbefore stated at said sale, and paid for by this respondent and Charles Stillman, also defendants herein; but without the knowledge of this respondent, or the knowledge of the said Charles Stillman, the deed was taken by Simon Mussina to Jacob Mussina. Also, one other labor of land was granted on the sixth day of June to Manuel Treviño, *alias* Canales, and was transferred by said Treviño to this respondent, Charles Stillman and Jacob Mussina, by deed bearing date 30th of January, 1849. Also, one other labor of land heretofore known as the property of Catarina Vela, granted by said ayuntamiento of said city of Matamoras, to about the day of , 18 , and surrendered by said Catarina to Walter Henry, as syndic of said Catarina, for

the benefit of the creditors of said Catarina, about the 27th day of May, 1845, and was by said syndic, Walter Henry, sold, transferred, and conveyed to Manuel Treviño on the 9th day of June, 1846, and was conveyed and transferred by said Manuel Treviño to this respondent, Charles Stillman, and Jacob Mussina on the 30th day of January, 1849. And respondent further says, that the tract or labor of land last named was duly conveyed by the said Catarina Vela and others, on the 20th day of December, to said respondent Stillman, and also one other grant was made from said ayuntamiento of the city of Matamoras, and by authority of said city, to Onofre Rebalcaba on the day of , 18 , of another labor of land, which said labor was duly transferred and conveyed by said Rebalcaba to Manuel Treviño Canales on the 15th day of December, 1848, and was also conveyed by Andres Peneda to the said Treviño on the day of , 1845, and by said Treviño to this respondent and the said Charles Stillman and Jacob Mussina was conveyed on the 30th of January, 1849. Also, another labor and tract of land was granted by said city and its authority to Manuel Vela on the 19th day of February, 1842, and was by said Vela transferred to Manuel Treviño on the 6th day of December, 1848, and was by said Treviño transferred and conveyed to this respondent, the said Charles Stillman, and Jacob Mussina, on the 30th day of January, 1849. Also, another labor and tract of land was granted by said city and authority to Manuel Vela on the day of , 18 , and was by said Vela transferred to Manuel Treviño on the day of , 18 , and was by said Treviño transferred and conveyed to this respondent, the said Charles Stillman, and Jacob Mussina, on the 30th day of January, 1849. Also, one other grant by said city of Matamoras and its authority of one other labor or tract of land on the 6th day of June, 1840, to Ignacio Flores, and was transferred and conveyed by said Flores on the 22d day of January, 1845, to Leodoro Malino, and was transferred and conveyed by said Malino on the 30th day of January, 1849, to Manuel Treviño, and on the day last aforesaid was duly transferred and conveyed by said Treviño to this respondent, the said Charles Stillman, and Jacob Mussina. Also, another grant of one other labor or tract of land was made by said city of Matamoras and its authority on the day of , 18 , to Francisco Fregosa, and was transferred and conveyed by said Fregosa to this respondent, Charles Stillman, and Jacob Mussina aforesaid, on the 30th day of January, 1849. Also, one other grant of one other labor and tract of land was made by said city and its authority on the 12th day of April, 1834, to José Aazario Garza, and was transferred and conveyed by said Garza to O. F. Janes on the 5th day of July, 1848, and was transferred by said Janes to this respondent, and the said Charles Stillman, and Jacob Mussina on day of May, 1849, and the said Garza, by deed dated on the 23d day of May, 1849, confirmed said conveyance and transfer to said Janes. Also, one other grant of one other labor and tract of land was granted by said city of Matamoras and its authority, on the 19th day of April, 1834, to Maximo Siena, and was transferred and conveyed by said Siena to Catarina Vela on the

23d day of January, 1837, and was transferred and conveyed by said Vela to Juan Galan on the 17th day of June, 1848, and was by said Galan transferred and conveyed on the 29th day of June, 1848, to O. F. Janes, and was transferred and conveyed on the day of May, 1849, to this respondent, and to the said Charles Stillman and Jacob Mussina, by said Janes. Also, one other grant of one other labor and tract of land was, on the 19th day of July, 1842, by the said city of Matamoras and its authority, granted to Antonio Salinas; on the 22d day of September, 1846, it was conveyed and transferred by said Salinas to Francisco Garcia Treviño, and was by said Treviño, on the 1st day of December, 1849, conveyed and transferred to the respondent, Charles Stillman. Also, one other grant of one other labor and tract of land was, by said city of Matamoras and its authority, made to Vincente Valerio on or about the 20th day of January, 1844, and was by said Vincente transferred and conveyed to Francisco Garcia Treviño on the 22d day of September, 1846, and was by said Treviño conveyed and transferred, on the 1st day of December, 1849, to said defendant, Charles Stillman. And respondent further says, that said Charles Stillman is the owner of one other tract and labor of land in his own exclusive right, which said tract and labor of land was purchased and acquired by said Charles Stillman of Miguel Salinis, by deed dated 6th of December, 1848, as will more fully appear by the exhibit herewith filed and made part of this amended answer, marked No. 9."

Fifth Amendment.

On the 8th page of said answer of said respondent, Samuel A. Belden, and on the second line of said page, and immediately after the words "the said," insert the following words: "Respondent Charles Stillman, and those under whom these respondents claim said land and all thereof, from said ayuntamiento or city of Matamoras down to these respondents."

Sixth Amendment.

Amendment of respondent, Samuel A. Belden, to the first interrogatory of complainants, to be inserted on the tenth page of said respondent's answer, and immediately after the word "claims," on the 29th line of said page: "And for further answer to the interrogatory numbered 1, in complainants' bill of complaint, this respondent says that he and his associates claim all of the tract of land on which the town site of the town of Brownsville stands and is situated as their own, and that their title to the same having been derived from and through the city of Matamoras and its authority, and through and from those claiming under said city of Matamoras and its authority, is more fully contained and set forth in the *fourth* amendment of this respondent's answer to said bill of complaint, herewith filed. Which said amendment and all thereof is hereby referred to and made part of this respondent's answer to this first interrogatory, together with all the exhibits, transfers, and conveyances filed herewith and numbered as follows."

Seventh Amendment.

The titles to the original answer of Samuel A. Belden, and the several amendments thereto, are so amended as to make the same and amendments thereto the joint and several answers of Charles Stillman and Samuel A. Belden. And the same are hereby made in all respects the joint and several answers and amendments thereto of Charles Stillman and Samuel A. Belden.

JOHNSON & SWETT,
JONES, BUTLER & BALLINGER,
Solicitors for Defendants.

Eighth Amendment.

The defendants, Stillman and Belden, do not admit, but, on the contrary, they expressly deny that the title to any part of said town site of Brownsville, legal or equitable, is in Jacob Mussina, these defendants, Charles Stillman owning and claiming three-fourths thereof, and the said Samuel A. Belden one-fourth thereof, with the exception of the Miguel Salinal labor, which is owned exclusively by defendant Stillman.

JONES, BUTLER & BALLINGER,
Solicitors for Defendants.

Eighth Amendment.

On the 11th page of said answer, and 17th line of said page, immediately after the word "by" in said line, insert the following words, that is to say: "the republic of Texas and State of Texas, and under the lawful authority thereof." Which said headright locations and surveys are more fully described by reference to the first amendment made by this defendant to his answer herein inserted on the third page of said original answer of this respondent, which said amendment is referred to and made a portion of the answer to this interrogatory, together with the said exhibits therein referred to, and in the first amendment described as *exhibits*. And said respondent further says that the respondent, Charles Stillman, did procure the certificates, bounty warrants and land scrip issued under the authority of the republic or State of Texas, and did locate, or cause to be located, the same upon said land, and did cause the same to be surveyed in the same manner as said locations and surveys thereon are set forth and described in said first amendment of this respondent to his original answer herein as by law he had a right to do.

Ninth Amendment.

And the said respondent, for further amendment to his answer to the bill of complainants herein, refers to and makes a part of this amended answer a certain map made by George Lyon, deputy surveyor, and marked letter A, and says the lines on said map which were made and are made, and are in dark or blue ink, include the land owned and claimed by these respondents, by title derived from and under the city of Matamoras and its authority, said land commonly known as the "ejidos of Matamoras," and that all lines represented by and included in and by the red lines on said map are

also held under and by virtue of said locations made by the said respondent, Charles Stillman, and those under whom respondents claim, and the surveys thereon, which said locations and surveys are set forth more at length in this preceding amended answer.

JOHNSON & SWETT,
JONES, BUTLER & BALLINGER,
Solicitors, &c.

Tenth Amendment.

Respondent amends his answer to the third interrogatory of complainants, which said answer is on the 12th page of said original answer of this respondent, by referring to and making part of this answer to the third interrogatory, the answers to interrogatories numbered one and two, (1 and 2,) and also the first and fourth amendment of this respondent to his original answer to complainants' bill, and all the exhibits therein referred to.

JOHNSON & SWETT and
JONES, BUTLER & BALLINGER,
Solicitors, &c.

We consent that the foregoing amendments may be filed *nunc pro tunc*, as of the same date as the original answer of S. A. Belden.

ALLEN & HALE,
Counsel for Complainants.

Exhibit F.

[Referred to in amended answer of Belden.]

STATE OF TEXAS,

District of San Patricio and Nueces.

[See original, Survey for Charles Stillman, assignee of David Snively, page 421.] ly, assignee of J. W. B. McFarlane, of 8.038970 $\frac{1}{2}$ square varas of land, situated on the N. E. side of the Rio Grande, including a part of the town of Brownsville, in the county of Cameron, being a part of the land to which he is entitled by virtue of headright certificate No. 111, issued by the board of land commissioners for the county of Victoria on the 6th of September, A. D. 1838.

Beginning at a stake and mound on the bank of the Rio Grande, near the lower or S. E. corner of a survey in the name of J. Baxter [the old corner of said survey having washed in] for the S. W. corner of their survey.

Thence N. 45° E. with the survey aforesaid, at 2,389 varas passed the N. E. corner of the survey of said J. Baxter; continued N. 45° E. at 2640 varas to a resaca 480 varas wide, 3800 varas to a road leading from Brownsville to Point Isabel, 4470 varas to a resaca 80 varas wide, at 5217 varas set post for the NW. corner, whence an ebony, marked ✕, bears S. 60° E. 14 varas. Ebony ✕ bears S. 38° E. 20 varas.

Thence S. 45° E. 102 varas, to a resaca 30 varas wide, at 1444 varas set post for the NE. corner, whence a mesquite, marked ✕, bears S. 76 W. 24 varas.

Thence S. 45° W. at 1,769 varas passed the N. W. corner of a survey in the name of David Snively, 2600 varas to a resaca 222 varas

wide, 4437 varas to the bank of the Rio Grande, set stake and mound for the levee of the town of Brownsville for the S. E. or lower corner.

Thence up, with the meanders of the Rio Grande, in front of Matamoras, Mexico, N. $49^{\circ} 30'$ W., 104 varas S. $36^{\circ} 15'$ W., 1220 varas S. $25^{\circ} 30'$ W., 460 varas, to the NE. corner of a labor grant made to Cavazos by the corporation of Matamoras, Mexico, and since transferred to P. C. Shannon, set stake and mound.

Thence, with the fence of said labor across the bend of the Rio Grande, N. 20° W. 255 varas, N. 8° W. 147 varas, N. 25° W. 95 varas, N. 70° W. 110 varas, S. 60° W. 52 varas, N. 84° W. 177 varas, to the bank of the Rio Grande, a large mesquite post, marked $\times$, for corner.

Thence up, with the meanders of the Rio Grande, N. 42° E. 33 varas, N. 21° E. 660 varas, N. $2^{\circ} 30'$ W. 370 varas, N. $34^{\circ} 15'$ W. 270 varas, N. $80^{\circ} 30'$ W. 130 varas, to the place of beginning. This survey contains all arable land.

GEORGE LYON,

Deputy Surveyor of the District of Nueces and San Patricio.

SAML. GOLSTON,

SANTIAGO CASSINO, *Ch. C.*

I, George Lyon, deputy surveyor of the district of San Patricio and Nueces, do solemnly swear, under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 6th day of November, 1848, and that the lines, boundaries, and corners, together with the marks natural and artificial, are truly described therein.

Witness my hand this 1st day of February, 1849.

GEORGE LYON,

Deputy Surveyor.

Recorded 28th February, 1849, at Corpus Christi, January 18. 1851.

J. SNIVELY, *Surveyor.*

CORPUS CHRISTI, *January 15, 1851.*

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the records of the surveyor's office of this district, as recorded in book *A*, No. 3, pages 117 and 118.

FELIX A. BLUCHER.

RAFAEL GARCIA CAVAZOS *et al.* }

vs.

CHARLES STILLMAN. }

In Chancery.

JANUARY 16, A. D. 1851.

This paper was produced by me to the witness, Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I have hereunto set my hand and seal of the

county of Nueces, at Corpus Christi, the day and date first above written.

[SEAL.]

H. A. GILPIN, *C. J. N. C.*

Exhibit G.

[Accompanying amended answer of Belden.]

STATE OF TEXAS,

District of Nueces and San Patricio.

[See original, Survey for Charles Stillman, assignee of 320 acres page 424.] of land of David Snively, situated on the N. E. side of the Rio Grande, including a part of the town of Brownsville, in the county of Cameron, being a part of the land to which he is entitled by virtue of certificate No. 39, issued by the board of land commissioners for the county of Nueces on the third day of January, 1848.

Beginning on the bank of the Rio Grande, at the lower or S. E. corner of a survey in the name of J. W. B. McFarlane, of whom Charles Stillman is the assignee.

Thence N. 45° E. with the survey aforesaid, 1650 vs. to a resaca 222 vs. wide, at 2648 vs. set a post for N. W. corner; whence an ebony, marked X, bears S. 57° W. 13 vs., also an ebony, marked X, bears S. 72° E. 21 vs.

Thence S. 45° E. 70 vs. to a lake 30 vs. wide, 460 to a road leading from Brownsville to Brazos Santiago, at 672 vs. set a post for the N. E. corner, whence a mesquit, marked X, bears N. 43° W. 9 varas.

Thence S. 45° W. 800 vs. to a resaca 200 vs. wide, 2,085 vs. to a bend of a lake, thus (|) 2337 vs. crossed said lake 2833 vs. to the bank of the Rio Grande, set post for the S. E. corner.

Thence up, with the meanders of the Rio Grande, N. 16° 30' W. 439 vs. N. 49° 30' W. 290 vs. to the place of beginning.

GEO. LYON, *Deputy surveyor.*

SAMUEL GOLSTON,

SANTIAGO CASSAS,

Ch. C.

I, George Lyon, deputy surveyor of the district of Nueces and San Patricio, do solemnly swear, under my official oath, that the survey designated in the foregoing plat and field notes was made by me on the 8th day of November, 1848, and that the lines, boundaries, and corners, together with the marks, natural and artificial, are truly described therein. Witness my hand this 23d day of November, 1848.

GEORGE LYON, *Deputy Surveyor.*

I, Jacob Snively, surveyor, etc., do certify that I have examined the foregoing plat and field notes, and find them correct, and the survey made according to law. Given under my hand at Corpus Christi, this 10th January, 1849.

J. SNIVELY, *Surveyor of the District.*

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the records of the surveyor's office of this district, as re-

corded in book *H*, pages 35 and 36. Given under my hand at Corpus Christi, this 15th January, 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

STATE OF TEXAS,

District of Nueces and San Patricio.

[See original, p. 426.] Survey for Charles Stillman, assignee of J. Snively, of 960 acres of land, situated on the N. E. side of the Rio Grande, about $1\frac{1}{2}$ miles below the town of Brownsville, in the county of Cameron, being the balance of the quantity of land to which he is entitled by virtue of land warrant No. $\frac{5}{6}\frac{3}{4}$, issued by the commissioner of the general land office on the 6th day of April, 1847.

Beginning on the bank of the Rio Grande, at the lower or S. E. corner of a survey in the name of Estevan Villareal, of whom Charles Stillman is the assignee.

Thence N. 45° E. with the survey aforesaid, 3100 varas to a resaca, 50 vs. wide, at 3871 vs. passed the N. E. corner of the survey aforesaid, at 4659 vs. set post for N. W. corner, whence a mesquite, marked X, bears N. 44° E. 5 varas, also a mesquite, marked X, bears S. 86° E. 7 vs.

Thence N. 45° E. at 1145 vs. set post for the N. E. corner, whence a mesquite, marked X, bears N. 13° W. 2 varas.

Thence S. 45° W. 1470 vrs. to a resaca 50 vs. wide, bearing N. W. 4709 varas, to the bank of the Rio Grande, set post for the S. E. or lower corner, whence a tapuroyo, marked X, bears N. 48° E. 100 vs., also an ebony, marked X, bears N. 89° E. 110 vs.

Thence up, with the meanders of the Rio Grande N. 12° W. 300 vrs., N. 22° W. 240 vrs., N. 60° 45' W. 740 vrs., to the place of beginning.

GEORGE LYON,
Deputy Surveyor.

SAMUEL GOLSTON,
SANTIAGO CASSUS,
Ch. C.

Surveyed on the 1st December, 1848.

Recorded on the 31st January, 1849.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, that the foregoing is a true copy of the field notes on record in the surveyor's office of this district, as recorded in book *C*, on page No. 163. Given under my hand, at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces.

RAFAEL GARCIA CAVAZOS *et als.* }
vs. }
CHARLES STILLMAN *et als.* }

In Chancery.

JANUARY, A. D. 1851.

This paper was produced by me to the witness, Felix A. Blucher.

on his examination, and by him duly examined and sworn to as a true copy of the records of his office.

In witness whereof, I have hereto set my hand and the seal of Nueces county, at Corpus Christi, the day and date above written.

[SEAL.]

H. A. GILPIN,
C. J. N. C.

Exhibit H.

[Accompanying amended answer of Belden.]

STATE OF TEXAS,

District of Nueces and San Patricio.

[See original, Survey for Charles Stillman, assignee of David p. 428.] Snively assignee of Sabas Medrano, of 640 acres of land, situated on the N. E. side of the Rio Grande, about $\frac{1}{2}$ a mile below the town of Brownsville, in the county of Cameron, being the quantity of land to which he is entitled by virtue of certificate No. 18, issued by the board of land commissioners for the county of Nueces, on the 10th of January, 1848.

Beginning on the bank of the Rio Grande, at the lower or S. E. corner of a survey made in the name of David Snively, of whom Charles Stillman is the assignee.

Thence N. 45° E. with the survey aforesaid, 476 vrs. to a bend in the lake, thus)); at 748 vrs. left said bend 1333 varas to a resaca 200 vs. wide, at 2833 varas passed the N. E. corner of the survey aforesaid, at 3087 varas set stake for the N. E. corner, whence a mesquite, marked X, bears S. 41° W. 10 vrs.; mesquite, marked X, bears S. 16° E. 7 vrs.

Thence S. 45° E., at 1078 vrs. set stake for the N. E. corner, whence a mesquite, marked X, bears N 74° W. 6 vrs., also an ebony, marked X, bears S. 35 W. vrs.

Thence S. 45° W. 10 vrs. to a resaca 140 vrs. wide, 842 vrs. to a bend of a resaca, thus)); at 1522 left bend of the resaca, 3812 vrs. to the bend of the Rio Grande, set stake and mound for the S. E. corner.

Thence up, with the meanders of the Rio Grande, N. 51° E. 210 varas, N. 14° W. 153 vrs.—N. 3° 15', W. 422 vrs., N. 2° W. 500 varas—N. 16° 30' W. 41 vrs., to the place of beginning.

GEORGE LYON,
Deputy Surveyor.

SAMUEL GOLSTON,
SANTIAGO CASSUS,
Ch. C.

I, George Lyon, deputy surveyor of the district of Nueces and San Patricio, do solemnly swear, under my official oath, that the survey designated in the foregoing plat and field notes was made by me on the 22d day of November, 1848, and that the lines, boundaries, and corners, together with the marks, natural and artificial, are truly described therein. Witness my hand this 23d day of November, 1848.

GEORGE LYON,
Deputy Surveyor.

I, Jacob Snively, surveyor, &c., do certify that I have examined and recorded the above field notes, on the 10th day of January, 1849. Given under my hand, at Corpus Christi, 10th January, 1849.

J. SNIVELY,
Surveyor, &c.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, that the foregoing is a true copy from the records of the surveyor's office of this district, as recorded in book *H*, on pages 33 and 34. Given under my hand, at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

“Copy.”

STATE OF TEXAS,

District of Nueces and San Patricio.

[See original, Survey for Charles Stillman, the assignee of David page 431.] Snively, the assignee of Estevan Villareal, for 1280 acres of land, situated on the northeast side of the Rio Grande, about one mile below Brownsville, in the county of Cameron, being the quantity of land to which he is entitled by virtue of certificate No. 36, issued by the board of land commissioners for the county of Nueces, on the 21st of January, 1845.

Beginning on the bank of the Rio Grande, at the lower or S. E. corner of a survey in the name of Sabas Medrano, of whom Charles Stillman is the assignee.

Thence N. 45° E. with the aforesaid survey 2390 vrs., to a bend of a resaca, thus $\cup$), 580 vrs., across said bend at 3490 vrs. to a resaca bearing N. W. 140 vrs. wide at 3690 vrs., passed the N. W. corner of the survey aforesaid 6170 vrs. to a resaca 50 vrs. wide, running N. W. at 6337 vrs., set a post for the N. W. corner, whence an ebony, marked $\times$, bears S. 18° E. 11 vrs., also an ebony, marked $\times$, bears S. 46° W. 13 vrs.

Thence S. 45° E. 170 vrs. to a resaca 30 vrs. wide, running N. E. 660 vrs. to a resaca 50 vrs. wide, at 1340 vrs. set post for the N. E. corner, whence a mesquite, marked $\times$, bears S. 87° W. 13 vrs.

Thence S. 45° W. 700 vrs. to a resaca 50 vrs. wide, 3871 vrs. to the bank of the Rio Grande, set a post and mound for S. E. corner.

Thence up, with the meanders of the Rio Grande, N. $60^{\circ} 45'$ W. 55 vrs.—S. $30^{\circ} 30'$ W. 470 vrs.—S. 57° W. 110 vrs.—S. $25^{\circ} 30'$ W. 860 vrs.—S. $49^{\circ} 15'$ W. 390 vrs.—S. $74^{\circ} 45'$ W. 180 vrs.—S. 61° W. 50—West 230 vrs.—N. 50° W. 190 vrs.—N. $25^{\circ} 30'$ E. 200 vrs.—N. $46\frac{1}{2}^{\circ}$ E. 850 vrs.—N. $10\frac{1}{2}^{\circ}$ E. 500 vrs.—N. $41^{\circ} 15'$ W. 480 vrs.—N. $67^{\circ} 30'$ W. 310 vrs.—S. 41° W. 10 vrs., to the place of beginning.

GEORGE LYON,
Deputy Surveyor.

SAMUEL GOLTSON,
SANTIAGO CASSUS, *Ch. C.*

I, George Lyon, deputy surveyor of the district of Nueces and

San Patricio, do solemnly swear, under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 27th day of November, 1848, and that the lines, boundaries, and corners, together with the marks, natural and artificial, are truly described therein.

Witness my hand this 30th day of November, 1848.

GEORGE LYON,
Deputy Surveyor.

I, Jacob Snively, surveyor, &c., do certify that I have examined the foregoing plot and field notes, and find them correct, and the survey made according to law.

Given under my hand this 30th of November, 1848.

J. SNIVELY,
Surveyor of the District.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, that the foregoing is a true copy of the field notes on record in the surveyor's office in this district, as recorded in book *H*, on pages 37 and 38.

Given under my hand, at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

RAFAEL GARCIA CAVAZOS *et al.* }
vs. } In Chancery.
CHARLES STILLMAN *et al.* }

16TH JANUARY, A. D. 1851.

This paper was produced by me to the witness, Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I have hereto set my hand and the seal of Nueces county, at Corpus Christi, the day and date above written.

[SEAL.]

H. A. GILPIN,
Chief Justice Nueces County.

Exhibit A.

BROWNSVILLE, August 15, 1848.

DEAR SIR: You will please survey, or cause to be surveyed by one of your legal deputies, three hundred and twenty acres of land, by virtue of certificate No. 398, (three hundred and ninety-eight,) class four, (class 4th,) for three hundred and twenty acres of land, issued to John Chubb by the board of land commissioners of the county of Galveston, Texas, on the 27th day of October, 1847. To be located and surveyed. Beginning at a point on the left bank of the Rio Grande, to run up the river for front and back for quantity, as the law directs.

(Signed)

CHARLES STILLMAN.

Mr. JACOB SNIVELY,
Surveyor of the District of San Patricio.

I, Felix A. Blucher, surveyor of the district of Nueces and San

Patricio, do certify, under my official oath, the foregoing to be an exact and true copy of an application made for Charles Stillman, and filed with the applications in the surveyor's office of this district.

Given under my hand, at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER,

Surveyor of the District of Nueces and San Patricio.

Copy.

BROWNSVILLE, August 15, 1848.

DEAR SIR: You will please survey, or cause to be surveyed by one of your legal deputies, six hundred and forty acres of land, by virtue of certificate No. 458, (four hundred and fifty-eight,) second class, issued to Francisco Guzman by the board of land commissioners of the county of Bexar, 9th day of September, 1847. Beginning at the northeast corner of the survey to be made for Charles Stillman, by virtue of certificate No. 398, (three hundred and ninety-eight,) issued to John Chubb by the board of land commissioners of the county of Galveston for (320) three hundred and twenty acres. Thence to run survey with the back line of the aforesaid to its intersection with survey to be made for the aforesaid Charles Stillman, by virtue of certificate No. (251) two hundred and fifty-one, issued to Michael Judd by the board of land commissioners of the county of Galveston, for (640) six hundred and forty acres. Thence N. 45° E., with the side line of the aforesaid, to the N. E. corner of the survey made by virtue of certificate No. 521, issued to Michael Judd for 640 acres. Thence with the back line to its N. W. corner; thence back, to make it as near square as the case will admit, to include six hundred and forty acres.

(Signed)

CHARLES STILLMAN.

Mr. JACOB SNIVELY,

Surveyor of the District of San Patricio.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the applications in the surveyor's office of this district.

Witness my hand, at Corpus Christi, 15th January, 1851.

FELIX A. BLUCHER,

Surveyor of the District of San Patricio and Nueces.

Copy.

BROWNSVILLE, August 15, 1848.

DEAR SIR: You will please survey, or cause to be surveyed by one of your legal deputies, six hundred and forty acres of land, by virtue of certificate No. (251) two hundred and fifty-one, class second, issued to Michael Judd by the board of land commissioners of the county of Galveston, 24th day of October, 1846. To be surveyed, beginning at the upper corner of a survey made for Charles Stillman, by virtue of certificate No. (398) three hundred and ninety-eight, issued to John Chubb by the board of land commissioners of the county of

Galveston, running up the river for front and back for quantity, as the law directs.

(Signed)

CHARLES STILLMAN.

Mr. JACOB SNIVELY,

Surveyor of the District of San Patricio.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the applications in the surveyor's office of this district.

Given under my hand, at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER,

District Surveyor, &c,

Copy.

BROWNSVILLE, August 15, 1848.

DEAR SIR: You will please survey, or cause to be surveyed by one of your legal deputies, six hundred and forty acres of land, by virtue of certificate No. 388, (three hundred and eighty-eight,) second class, issued to Juan Rodriguez Montemayor, by the board of land commissioners for the county of Bexar, on the 14th day of July, 1847, beginning at the upper corner on the left bank of the Rio Grande, and to be surveyed above and adjoining the survey to be made for Charles Stillman, by virtue of a certificate No. 251, (two hundred and fifty-one,) issued to Michael Judd by the board of land commissioners of Galveston county, for six hundred and forty acres, (640,) running up the river for front and back for quantity, as the law directs.

(Signed)

CHARLES STILLMAN.

Mr. JACOB SNIVELY,

District Surveyor of the District of San Patricio.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the application in the surveyor's office of this district. Given under my hand, at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER,

Surveyor of the district of Nueces and San Patricio.

RAFAEL GARCIA CAVAZOS *et al.*

vs.

CHARLES STILLMAN *et al.*

In Chancery.

16TH JANUARY, A. D. 1851.

This paper was produced to me by the witness, Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I have hereto set my hand and the seal of the county of Nueces, at Corpus Christi, the day and date first
[SEAL.] above written.

H. A. GILPIN, C. J. N. C.

Exhibit B.

[Accompanying and referred to in Belden's answer.]

BROWNSVILLE, *August 15, 1851.*

To Mr. Jacob Snively, surveyor of the district of San Patricio :

DEAR SIR: You will please survey, or cause to be surveyed by one of your legal deputies, (320) three hundred and twenty acres of land, by virtue of certificate No. (295) two hundred and ninety-five, fourth class, issued to Antonio Garza by the board of land commissioners of Bexar county, the 6th of April, 1847, beginning at the upper corner of a survey to be made for Charles Stillman on the left bank of the Rio Grande by virtue of certificate No. (388) three hundred and eighty-eight, issued to Juan Rodriguez Montemayor by the board of land commissioners of Bexar county for (640) six hundred and forty acres, running with the upper side lines of the aforesaid Montemayor, and a survey to be made for Charles Stillman, by virtue of certificate No. (15) fifteen, issued to Henry H. Wheeler by the board of land commissioners of Grimes county for six hundred and forty, its upper or southwest corner to be the southeast corner of a survey made for Asa Wheeler, then to run with the side line of the aforesaid Wheeler.

(Signed)

CHARLES STILLMAN.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the application in the surveyor's office of this district. Given under my hand this 15th day of January, 1851, at Corpus Christi.

FELIX A. BLUCHER,

Surveyor of the District, &c.

Copy.

To Mr. Jacob Snively, surveyor of the district of San Patricio :

DEAR SIR: You will please survey, or cause to be surveyed by one of your legal deputies, six hundred and forty acres of land, by virtue of certificate No. (136) one hundred and thirty-six, issued to Francis Bartolomis by the board of land commissioners of the county of Galveston, the 13th day of October, 1845, beginning at the upper or southwest corner of a survey in the name of Asa Wheeler, on the left bank of the Rio Grande, thence up the river for front and back for quantity, as the law directs.

(Signed)

CHARLES STILLMAN.

BROWNSVILLE, *August 15, 1848.*

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the applications in the surveyor's office of this district. Given under my hand, at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER,

Surveyor of the District of Nueces and San Patricio.

Copy.

To Mr. Jacob Snively, surveyor of the district of San Patricio :

DEAR SIR : You will please survey, or cause to be surveyed by one of your legal deputies, one-third of a league of land by virtue of certificate No. 846, class 2d, issued to John B. Fox by the board of land commissioners of the county of Harris, 2d day of August, 1847, to be surveyed back and adjoining the survey to be made for Charles Stillman, by virtue of certificate No. (136) one hundred and thirty-six, issued to Francis Bartolomis by the board of land commissioners for Galveston county, and back and adjoining survey to be made for Asa Wheeler, thence along the line of survey to be made for Charles Stillman by virtue of certificate No. (295) two hundred and ninety-five, issued to Antonio Garza by the board of land commissioners of Bexar county, thence running along the line of survey to be made for Charles Stillman, by virtue of certificate No. (15) fifteen, issued to Henry H. Wheeler by the board of land commissioners of Grimes county, for six hundred and forty acres, running back to the north-west for quantity, as per accompanying map.

(Signed)

CHARLES STILLMAN.

BROWNSVILLE, *August 15, 1848.*

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the application in the surveyor's office of this district. Given under my hand this 15th day of January, 1851, at Corpus Christi.

FELIX A. BLUCHER,

*Surveyor of the District of Nueces, &c.**Copy.*

To Mr. Jacob Snively, surveyor of the district of San Patricio :

DEAR SIR : You will please survey, or cause to be surveyed by one of your legal deputies, six hundred and forty acres of land by virtue of certificate No. (15) fifteen, 4th class, issued to Henry H. Wheeler by the board of land commissioners of Grimes county, the 12th day of July, 1847, beginning at the northeast corner of survey to be made for Charles Stillman by virtue of certificate No. (388) three hundred and eighty-eight, issued to Juan Rodriguez Montemayor by the board of land commissioners of Bexar county, for six hundred and forty acres. Thence with the lines of surveys to be made for Charles Stillman by virtue of certificate No. (251) two hundred and fifty-one, issued to Michael Judd, No. (458) four hundred and fifty-eight, and certificate No. (295) two hundred and ninety-five, issued to Antonio Garza, issued to Francis Guzman, as per accompanying map.

(Signed)

CHARLES STILLMAN.

BROWNSVILLE, *August 15th, 1848.*

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the

applications in the surveyor's office of this district. Given under my hand, at Corpus Christi, this 15th day of January.

FELIX A. BLUCHER,

Surveyor of the District of Nueces and San Patricio.

RAFAEL GARCIA CAVAZOS *et al.* }

vs.

CHARLES STILLMAN *et al.* }

In Chancery.

JANUARY 16, A. D. 1851.

This paper was presented by me to the witness, F. A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I have hereto set my hand and the seal of the county of Nueces, at Corpus Christi, the day and date first above written.

[SEAL.]

H. A. GILPIN, *C. J. N. C.*

Exhibit C.

[Referred to in amended answer of Belden.]

THE STATE OF TEXAS, }	320 acres.	{ No. 398,
County of Galveston. }		{ Class 4th.

John Chubb this day appeared before the board of land commissioners of the county aforesaid, and made proof, in accordance with law, that he arrived in the late republic of Texas in October, 1839, and has been a permanent resident of said republic for more than three years, and performed all the duties required of him as a citizen, and not having heretofore received the quantity of land he is entitled to, and, being at the time of his immigration a single man, he is entitled to an unconditional grant of three hundred and twenty acres of land.

Given under our hands this 29th October, A. D. 1847.

[COUNTY SEAL
GALVESTON CO.]

(Signed)

A. F. JAMES,

*Chief Justice and ex-officio president
of the board of land commissioners.*

A. C. CRAWFORD

and E. LEWIS,

Associates.

Attest:

(Signed)

OSCAR FARISH,

County clerk, ex-off. clerk Board of L. C.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, certify, under my official oath, the foregoing to be a true copy of the headright certificate No. 398, filed in the surveyor's office of this district with the application of Charles Stillman, on the 15th August, 1848, the said certificate is now on file in this office.

Given under my hand, at Corpus Christi, this 16th January, A. D. 1851.

FELIX A. BLUCHER,

Surveyor of the District of Nueces and San Patricio.

Copy.

STATE OF TEXAS, }
 County of Bexar. } 640 acres. } No. 458,
 } 2d Class.

This is to certify that Francis Guzman has appeared before us, the board of land commissioners for said county, and proved, according to law, that he arrived in this State previous to the 1st of October, 1837, and that he is a single man, and has resided in the same three years, and performed all the duties required of him as a citizen, and never having received a certificate for the quantity of land now applied for, he is entitled to six hundred and forty acres of land.

Given under our hands and the seal of the county court this 9th day of September, 1847.

[COUNTY SEAL (Signed) THOMAS WHITEHEAD,
 BEXAR Co.] *Chief Justice and ex-offi. Pres't B'd L'd Cm'rs B. C.*
 (Signed) LEWIS HUTH,
 (Signed) WILLIAM SMALL,
Commissioners.

Attest : (Signed) THOS. H. O'S. ALDRICKS,
Clk. C. C. B. C., ex-officio Clk. Board Land Comm'rs.
 By BENJ. E. EDWARDS, *Deputy.*

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of headright certificate No. 458, 2d class, filed and now on file with the application made by Charles Stillman on the 15th August, 1848, to the surveyor of this district.

Given under my hand this 16th day of January, A. D. 1857.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

STATE OF TEXAS, }
 County of Galveston. } 640 acres. } No. 251,
 } 2d Class.

This is to certify that Michael Judd has appeared before us, the board of land commissioners for the county of Galveston, and proved, according to law, that he emigrated to the republic of Texas in the month of April, 1835; that he resided in and was an actual citizen of said republic three years, and performed all the duties required of him as a citizen; that he is a single man, and that he has never heretofore obtained a certificate or headright for land. He is therefore entitled to an unconditional grant of six hundred and forty acres of land, in accordance with an act of Congress approved January 16th, 1843.

Given under our hands at the city of Galveston this 24th day of October, A. D. 1846.

[COUNTY SEAL (Signed) A. F. JAMES,
 GALVESTON Co.] *Chief Justice and ex-offi. President B'd L'd Com.*
 A. C. CRAWFORD,
 E. LEWIS,
Associates.

Teste : (Signed) WM. H. SANDUSKY,
Dep. Cl'k of the County Court of Galveston County,
an ex-off. Clerk of the Board of Land Commissioners.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the headright certificate No. 251, 2d class, filed and now on file with the application made by Charles Stillman on the 15th day of August, 1848, to the surveyor of this district.

Given under my hand, at Corpus Christi, this 16th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, &c.

Copy.

STATE OF TEXAS, }
County of Bexar. }

640 acres.

{ No. 388,
} 2d class.

This is to certify that Juan Rodriguez Montemayor has appeared before us, the board of land commissioners for the county of Bexar, and proved, according to law, that he arrived in this republic previous to the first day of October, 1837; that he is a single man, and has resided in the same three years, and performed all the duties required of him as a citizen, and never having received a certificate for the quantity of land for which he applies, he is entitled to six hundred and forty acres of land.

Given under our hands, at the city of San Antonio, on the 12th day of July, A. D. 1847.

[COUNTY SEAL
BEXAR CO.]

(Signed)

THOMAS WHITEHEAD,

Chief Justice and ex-officio Pres't B'd L'd Com.

(Signed)

JAMES B. LEE,

(Signed)

WILLIAM SMALL,

Commissioners.

Attest :

(Signed)

THOS. H. O'S. ALDRICKS,

Clerk C. C. and ex-officio Clerk Board Land Commissioners,

By BEN. E. EDWARDS, *Deputy.*

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of headright certificate No. 388, 2d class, filed and now on file with the application made by Charles Stillman on the 15th day of August, 1848, to the surveyor of this district. Given under my hand, at Corpus Christi, this 16th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, &c.

RAFAEL GARCIA CAVAZOS *et al.*

vs.

CHARLES STILLMAN *et al.*

} In Chancery.

JANUARY 16, A. D. 1851.

This paper was produced by me to the witness, Felix A. Blucher, on his examination, and sworn to as a true and correct copy of the records of his office, after having duly examined the same.

In witness whereof, I have hereto set my hand and the seal of the county of Nueces, at Corpus Christi, the day and date first above written.

[SEAL.]

H. A. GILPIN,
C. J. N. C.

Exhibit D.

STATE OF TEXAS, }	320 acres.	{ No. 295,
County of Bexar. }		{ 4th Class.

This is to certify that Antonia Garza, jr, has appeared before the board of land commissioners for the county aforesaid, and proved, according to law, that he arrived in the republic previous to the first day of January, A. D. 1842, and that he is a single man, and has resided in the same three years, and has performed all the duties required of him as a citizen; and, having never received a certificate for the quantity of land for which he applies, he is entitled to three hundred and twenty acres of land.

Given under our hands, at San Antonio, this 6th day of April, 1847.

[COUNTY SEAL
BEXAR CO.]

(Signed)

THOMAS WHITEHEAD,
Chief Justice and ex-off. President
Board Land Commissioners.

(Signed)

LEWIS HUTH,

(Signed)

J. H. BROWN,

Commissioners.

By BEN. E. EDWARDS,

Deputy.

Attest:

(Signed)

THOS. H. O'S. ALDRICKS,
Clerk C. C. and ex-off. Clerk
Board Land Com'ers.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of headright certificate No. 295, 4th class, filed and now on file with the application made by Charles Stillman on the 15th August, 1848, to the surveyor of this district.

Given under my hand, at Corpus Christi, this 15th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, &c.

Copy.

REPUBLIC OF TEXAS,
County of Galveston.

Class 4th, No. 136.

This is to certify that Francis Bartolomis has appeared before the board of land commissioners for the county aforesaid, and proved, according to law, that he emigrated to this country previous to the

first of October, 1837 ; that he has been an actual citizen of this republic three years, and done and performed all the duties required of him as a citizen ; and that he is a single man, and is entitled to an unconditional grant of six hundred and forty acres of land, in accordance with an act approved January 10, A. D. 1843, he having proved that he had never heretofore obtained a certificate for any land.

Given under our hands, at the city of Galveston, this 13th day of October, 1845.

[COUNTY SEAL (Signed)
GALVESTON Co.]

JOHN S. JONES,
*Chief Justice and ex-off. President
of Board Land Comm'rs.*
J. W. MARE,
Associate.

Attest : (Signed)

OSCAR FARISH,
*Clerk Galveston C. Court and ex-off.
Clerk Board Land Commissioners.*

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do hereby certify, under my official oath, the foregoing to be a true copy of the headright certificate No. 136, 4th class, filed and now on file with the application made by Charles Stillman on the 15th day of August, 1848, to the surveyor of this district. Given under my hand, at Corpus Christi, this 15th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, &c.

Copy.

THE STATE OF TEXAS,
Harris county.

One-third of a league, No. 846, Class 2d.

We, the undersigned, a board of land commissioner for the county aforesaid, do hereby certify that John B. Fox has appeared before us, and proved, according to law, that he emigrated to Texas previous to the 1st of August, 1836, served in the army of Texas prior to that time, and was honorably discharged. He made oath that he had never received from any board of land commissioners in Texas a certificate of headright. This is, therefore, to declare that the said John B. Fox is entitled to an unconditional headright of one-third of a league of land, by virtue of his emigration and service in the army aforesaid. Given under our hands this 2d August, A. D. 1847.

[COUNTY SEAL (Signed)
HARRIS Co.]

W. B. REEVES,
Chief Justice and ex-off. Presid't B. L. C.
(Signed) JOHN W. FOGG,
(Signed) JOHN W. BERGER,
(Signed) *Associate Comm'rs.*

Attest : (Signed)

W. R. BAKER,
*Clerk Harris County and ex-off. Clerk
Board Land Commissioners.*

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of headright certificate No. 846, 2d class, filed and now on file with the application made by Charles Stillman on the 15th August, 1848, to the surveyor of this district. Given under my hand, at Corpus Christi, this 16th day of January, A. D. 1851.

FELIX A. BLUCHER,

Surveyor of the District of Nueces and San Patricio.

Copy.

REPUBLIC OF TEXAS,

County of Montgomery.

No. 79, 4th Class.

This is to certify that Henry H. Wheeler has appeared before us, the board of land commissioners for the county aforesaid, and proved, according to law, that he arrived in this republic in November (1840), eighteen hundred and forty; that he is a head of a family, and never having received any certificate for the quantity of land for which he applies, is entitled to a conditional grant of six hundred and forty acres of land, in accordance with an act of congress approved 4th January, 1841, and a supplementary act, approved 4th February, 1842. Given under our hands, at the town of Montgomery, this 2d day of May, 1842.

(Signed)

HUGH MCGUFFIN,

Chief Justice and ex-off. Pres't Board Land Comm'rs.

[SEAL M. C.]

(Signed)

ELISHA UZZELL,

Associate.

Attest :

(Signed)

WM. H. FOWLER,

Clerk County Court and ex-off. Clerk Board Land Comm'rs.

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the conditional headright certificate No. 79, 4th class, filed and now on file with the application made by Charles Stillman on the 15th August, 1848, to the surveyor of this district. Given under my hand, at Corpus Christi, this 16th day of January, 1851.

FELIX A. BLUCHER,

Surveyor of the District of Nueces, &c.

RAFAEL GARCIA CAVAZOS *et al.* }

vs.

CHARLES STILLMAN *et al.* }

In Chancery,

JANUARY 16, A. D. 1851.—This paper was produced by me to the witness, Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I have hereto set my hand and the seal of the county of Nueces the day and date first above written.

[SEAL.]

H. A. GILPIN,

C. J. N. C.

Exhibit E.

County Court, July term, A. D. 1847.

THE STATE OF TEXAS,	{ COUNTY SEAL }	No. 15,
<i>Grimes County.</i>		

This is to certify that Henry H. Wheeler appeared before us, the board of land commissioners for the county of Grimes, and proved, according to law, that he is entitled to an unconditional headright certificate for six hundred and forty acres of land, according to an act entitled an act to extend to late emigrants, or those who may emigrate within a specific time, a donation of land, approved January 4th, 1841, and supplementary act approved 4th February, 1842.

Given under our hands, at the town of Altamira, this the 12th day of July, A. D. 1847.

[SEAL.] (Signed)
(Signed)
(Signed)

J. B. CAMP,
A. B. DODSON,
G. G. W. PEARSON,
County Commissioners.

Attest : (Signed)

DAVID E. HARPER,
*Clerk County Court and ex-off. Clerk
Board Land Commissioners.*

I, Felix A. Blucher, surveyor of the district of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the unconditional headright certificate No. 15, 4th class, filed and now on file with the application made by Charles Stillman on the 15th August, A. D. 1848, to the surveyor of this district. Given under my hand, at Corpus Christi, this 16th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

RAFAEL GARCIA CAVAZOS *et al.* }
vs. }
CHARLES STILLMAN *et al.* }

In Chancery.

This paper was produced by me to the witness, Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I have hereunto set my hand and the seal of the county of Nueces, at Corpus Christi, the day and date above written.

[SEAL.]

H. A. GILPIN,
C. J. N. C.

Exhibit marked No. 9.

STATE OF TEXAS,

County of Cameron.

Know all men by these presents, that I, Miguel Salinas, of the above stated county, for and in consideration of the sum of five hundred dollars to me in hand paid by Charles Stillman, Cameron county, Texas, and before the signing, sealing, and delivering of these presents, the receipt whereof I hereby acknowledge, and forever discharge the said Charles Stillman by these presents, have bargained, granted, sold, released, and conveyed, and by these presents do bargain, grant, sell, release, and convey unto the said Charles Stillman, his heirs and assigns, all that certain tract or parcel of land lying and being situate in the county of Cameron, State of Texas, within the limits of what is termed the Exidos of the city of Matamoras, on the left bank of the Rio Grande, and as per survey and map made by George Lyon, deputy surveyor of the land district of San Patricio and Nueces, described as follows: Being situated about one quarter of a mile southeast from the town of Brownsville, in the county of Cameron, beginning at a point of the eastern boundary of a labor of Doreteo Zamoras, assignee of Thence N. $88^{\circ} 30'$, E. 334 varas; S. 1° , E 145 varas to the bank of a lake. Thence, with the meanders of said lake, S. $68^{\circ} W$. 230 varas; S. $14^{\circ} 30' W$. 130 varas to the NE. corner of a labor granted to Manuel Vela. Thence, with the dividing line of Salinas and Manuel Vela, S. $79^{\circ} W$. 43 varas to the corner of the labors of Agapeto Vela, Manuel Vela, and Miguel Salinas. Thence, with the dividing line of the said Agapeto Vela and Salinas, N. $3^{\circ} 30' E$. 95 varas; N. $15^{\circ} W$. 184 varas to the SE. corner of a labor of Doretio Zamora. Thence, with the dividing line of the said Zamora and Salinas, N. $00^{\circ} 30' E$. 81 varas, to the place of beginning, containing $12\frac{53}{100}$ (twelve $\frac{53}{100}$) acres of land, granted by the corporation of Matamoras to Miguel Salinas, and by purchases, together with all the rights, improvements, hereditaments appurtenant, &c., or thereunto appertaining: to have and to hold the said tract, parcel, or labor of land, improvements, hereditaments, and rights hereby granted, or mentioned, or intended so to be, unto the said Charles Stillman, his heirs and assigns, forever. In witness whereof, I have hereto set my hand and affixed my seal, scroll for seal,, this 6th day of December, A. D. one thousand eight hundred and forty-eight, 1848.

MIGUEL SALINAS. [L. s.]

Signed, sealed, and delivered in presence of witnesses,

WM. H. BOWEN.

AGAPITO VELA.

STATE OF TEXAS,

County of Cameron.

Before me, William L. Walradt, clerk pro tem. of the county court in and for the county and State aforesaid, personally appeared Wil-

William H. Bowen, to me personally and well known, and one of the subscribing witnesses to the foregoing instrument of writing or deed of conveyance, and who, after being duly sworn according to law, did depose and say that he saw the grantor, Miguel Salinas, sign, seal, and deliver the said instrument of writing or deed of conveyance to Charles Stillman aforesaid, and that he, the said William H. Bowen, signed the same as one of the subscribing witnesses thereto, at the request and in the presence of said Miguel Salinas. To certify which, I hereto set my name and affix my seal of office this 8th day of March, A. D. 1849.

[SEAL.]

WM. L. WALRADT,
Clerk pro tem. of the County Court.
of Cameron County, Texas.

THE STATE OF TEXAS,
County of Cameron.

I, clerk of the county court in and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing was filed for record in my office on the 19th day of December A. D. 1850, at 2 o'clock p. m., and was duly recorded the next day in book *D* of real estate, pages 228, 229, and 230.

To certify which, witness my hand and seal of office this 20th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,
C. C. C. C. C.
By B. H. FRY, *Deputy.*

In Chancery between

RAFAEL GARCIA CAVAZOS *et al.*, complainants, }
and
CHARLES STILLMAN *et al.*, defendants. }

24TH DECEMBER, 1850.

At the execution of a commission for the examination of witnesses in this cause, this paper was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS,
Commissioner.

Exhibit marked "A."

(George Lyon's map.)

(For map see original, page 459.)

And afterwards, to wit, on the twenty-seventh day of February of the same year, the court here made an order in this cause in the words and figures following, that is to say:

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
vs. }

CHARLES STILLMAN and others.

On motion of counsel for Jacob Mussina, it is ordered that the clerk make publication of the deposition of George W. Smyth.

And afterwards, to wit, on the tenth day of March of the same year, the complainants, by their counsel, filed a motion herein, which is in the words and figures following, that is to say :

Motion.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

December Term, 1850.

RAFAEL GARCIA CAVAZOS and others }
vs. }

CHARLES STILLMAN and others.

The complainants in the above entitled cause move this honorable court that they have leave to prove, viva voce, at the hearing of the same, the execution of the original testimonio of title issued by the legal and proper authorities under the crown of Spain, to D. José Salvador de la Garza, for the land described in the bill of complaint, the same not having been proved by a commission on account of the danger of losing or defacing it.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Complainants.

And afterwards, to wit, on the twelfth day of March of the same year, came the defendants herein, by their counsel, and filed a motion, which is in the words and figures following, that is to say :

Motion.

IN THE UNITED STATES DISTRICT COURT,
District of Texas.

CAVAZOS and others

vs.

STILLMAN and others.

The defendants move the court to suppress the several depositions taken in favor of the complainants in the above cause, and now on file therein, because in the said depositions, and each of them, the last interrogatory propounded by the complainants is not in the form prescribed by the rule of the Supreme Court of the United States, but is in violation of the said rule; and the defendants refer to the interroga-

tories on which the said several depositions were taken; this motion applies to the said depositions respectively and separately.

SWETT, BALLINGER, &c.,
Of Counsel for Defendants.

And afterwards, to wit, on the thirteenth day of March of the same year, the court here made an order in this cause, which is in the words and figures following, that is to say:

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
vs.

CHARLES STILLMAN and others. }

On this day came on to be heard the motion of complainants' counsel, filed on the 10th day of March, praying leave of the court to prove by viva voce testimony the execution of the original testimonio of title, issued by the legal and proper authorities of the crown of Spain to Don José Salvador de la Garza for the land described in the bill of complaint. After argument of counsel heard, it is ordered that the motion be allowed.

And afterwards, to wit, on the same day and year, the court here made an order in this cause, which is in the words and figures following, that is to say:

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
vs.

CHARLES STILLMAN and others. }

On this day came on to be heard the motion of defendant's counsel, filed on the 12th day of March, to suppress the depositions of complainants. After argument of counsel heard, it is ordered that the motion be overruled.

And afterwards, to wit, on the same day and year, the complainants, by their counsel herein, filed a motion to produce, &c., which is in the words and figures following, that is to say:

Notice.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs.

CHARLES STILLMAN and others. }

To Joseph A. Swett, esq., solicitor and counsel for the defendants,
Stillman, Belden, and Mussina:

SIR: Please to take notice that we shall require you to produce, upon the hearing of the above entitled cause, the original agreement or contract between the parties whom you represent, under which

Jacob Mussina claims an interest in or title to any of the lands mentioned in the bill of complaint.

ALLEN & HALE,
Solicitors for the Complainants.

MARCH 13, 1851.

Service acknowledged March 13, 1851.

J. A. SWETT.

And afterwards, to wit, on the same day and year, defendants, by their counsel, filed a motion herein, which is in the words and figures following, that is to say:

Motion.

IN THE UNITED STATES DISTRICT COURT,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

The defendants in the above entitled cause move the court to dismiss the bill of complainants herein, because it appears therefrom that this court has not jurisdiction of this case.

JOHNSON & SWETT,
Of Counsel, &c.

And afterwards, to wit, on the same day and year, Jacob Mussina, by his attorney in fact, Simon Mussina, filed a motion herein, which is in the words and figures following, that is to say:

Motion.

UNITED STATES DISTRICT COURT,
District of Texas.

CAVAZOS *et als.*, complainants, }
vs. }
STILLMAN *et als.*, defendants. }

In Chancery.

In the above entitled cause, Jacob Mussina, one of the defendants, assigns the following additional grounds in support of his motion, that the complainants' bill, as amended, be dismissed at the hearing, with costs: filed January 18, 1851.

Fifth. Because José Miguel Parados, who is shown by the bill to be a necessary and proper party defendant, has not been brought into court, and is not a party to this suit.

Sixth. Because no decree can be entered in favor of the complainants for the land upon which the town of Brownsville is situate, as the entire legal title and all the parties interested therein is not before the court, nor can any partition be made among the parties for this reason.

Seventh. Because the court has no jurisdiction over the cause under the treaty of Guadalupe Hidalgo.

Eighth. Because the bill, as amended, shows that the complainants are seeking to establish a legal right by a suit in chancery, and that a court of equity has no jurisdiction over the case.

JACOB MUSSINA,

By his attorney in fact, Simon Mussina.

F. H. MERRIMAN,

Solicitor for Defendant Mussina.

And afterwards, to wit, on the fourteenth day of March of the same year, the defendants, by their solicitors, filed a motion herein, which is in the words and figures following, that is to say :

Motion.

IN THE UNITED STATES DISTRICT COURT,
District of Texas.

RAFAEL GARCIA CAVAZOS and others	}	No. 41.
<i>vs.</i>		
CHARLES STILLMAN and others.		

In Chancery.

The defendant, Jacob Mussina, moves the court that all and each of the package of depositions filed on the part of the complainants, and numbered from one to seventeen, inclusive, be suppressed, and he assigns the following causes in support of his motion as a part thereof, to wit:

First. That it does not appear that each and every one of the various depositions, exhibits, transcripts, and other papers, that are claimed to have been included in each of the said packages, were marked file, or are of file in this court.

Second. That it does not appear that each of the said packages of depositions, since the publication thereof has been ordered, have been in the clerk's office, and in the keeping and custody of the clerk of the court; but, on the contrary, each of said packages of depositions, and the various depositions, exhibits, and other papers, claimed to have been enclosed originally in said packages, have been taken and kept for a greater or less period of time since the order of publication thereof, out of the clerk's office of this court, and out of the keeping and custody of the clerk of this court, by the solicitor of the complainants.

Third. Because the various exhibits, transcripts, and papers referred to in the descriptions, claimed to have been originally contained in said packages, were not attached to the depositions wherein it is claimed they referred to.

Fourth. Because it does not appear that each of said depositions, claimed to have been originally contained in said packages, were reduced to writing by the magistrate taking the same, or by the deponent in his presence.

Fifth. Because none of the translations of the various exhibits,

transcripts, and papers relied on by complainants, were made by Henry Austin, the translator of the court, or by any other disinterested and competent translator.

Sixth. Because full translations of the various exhibits, depositions, and papers, in the Spanish language, relied upon by complainants, have not been made and filed.

JOHNSON & SWETT,

For 1st, 3d, 4th, 5th, and 6th causes specified in motion of counsel for defendants, Stillman, Belden, and Mussina.

V. E. HOWARD & ALEXANDER,

Of the solicitors for defendants, in support of the motion and all of the causes assigned.

Filed March 14, 1851.

And afterwards, to wit, on the eighteenth day of March of the same year, William G. Hale, esq., of counsel for complainants, filed his "affidavit of notice" to defendants herein, which is in the words and figures following, that is to say:

Affidavit of Notice.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

I, William G. Hale, one of the solicitors of the complainants in the above entitled cause, being duly sworn, make oath and say, that on the 9th day of February, 1850, being the same day wherein several of the sets of interrogatories addressed to witnesses residing in the State of Tamaulipas were filed in the clerk's office of this court, I called at house of Joseph A. Swett, esq., one of the solicitors for the defendants, and stated to him verbally that I had filed the said interrogatories on that day, and intended to take out letters rogatory under the order of the court in this cause, and that I had entered a formal notice on the order book of the court; and I further say that I remember these facts from having made a memorandum of them at the time.

WILLIAM G. HALE.

And afterwards, to wit, on the twenty-first day of March of the same year, the court here made an order in this cause, which is in the words and figures following, that is to say:

Order of Court.

RAFAEL GARCIA CAVAZOS *et als.* }
vs. }
CHARLES STILLMAN *et als.* }

An objection having been made by the counsel for the defendants to the reading of the translations of the Spanish papers filed in the

cause, which translations have been made by William G. Hale, one of the solicitors of the complainants, upon the ground, among other things, that said translations were not under oath, nor made by a disinterested person, it was ordered by the court, upon the application of the counsel for the complainants, that they have leave to examine *viva voce* Joseph A. Swett, one of the solicitors of the defendants, and Simon Mussina, attorney in fact for Jacob Mussina, a defendant in this cause, touching the matter of this objection, and that the testimony of the witnesses be reduced to writing and filed in this cause, and the same was accordingly done. And thereupon, after argument heard, it is ordered by the court that the said objections be overruled, and that the complainants have leave to read, upon the hearing, the translations aforesaid, subject to any objections to be made as to their correctness.

And afterwards, to wit, on the same day and year, and consequent upon the foregoing order, the affidavits of Joseph A. Swett and Simon Mussina were filed herein, and are in the words and figures following, that is to say :

Affidavits of Swett and Mussina.

Joseph A. Swett, being duly sworn, states that his construction of the two orders of court requiring translations to be furnished was, that either the party or his solicitor might make a translation and all translations referred to in said order.

That, after the depositions had been returned to this court, a short time before the commencement of the term of the court, William G. Hale, esq., one of the counsel for complainants, stated to witness that he was either then making the translations required, or was about to commence making such translations, and no objection was made by witness to their being made by said Hale ; and afterwards, Mr. Hale inquired of witness whether the translations would be required to be returned to and filed in court, or should be handed to witness? Witness told Mr. Hale that he (witness) preferred taking the translations from Mr. Hale to their being filed in court, for the reason that it was not convenient to go to the clerk's office to see said translations and examine them ; said Hale did, in a few days thereafter, give witness a number of translations, papers, and depositions so returned to court on the part of complainants. That, on the last of December, Mr. Hale stated to witness that he had been requested by Mr. Simon Mussina to file the translations in court, and they must be returned to him, said Hale, in order that they might be filed in court. Witness returned the translations to Mr. Hale.

Witness had the impression and belief, ever since the depositions were returned to court from Mexico, that Mr. Hale would make the translations of the Spanish documents and testimony filed on the part of complainants. Witness is of counsel in this case for Stillman, Belden, and Mussina. Witness also stated that there was no other understanding or agreement that was to relate back to the time or manner of taking the testimony in said case, or returning the same to court. Witness also states that, during the pendency of said cause,

there has existed the utmost courtesy between the opposing counsel in this case in relation to the management of this cause.

Simon Mussina being sworn, testifies that, some time in the month of December last, he arrived in this city, and went to the clerk's office of this court to examine the depositions taken in this cause; that he found them taken out; that he afterwards met W. G. Hale, one of the counsel for the complainants, who informed him that he had the depositions, and was engaged in making the translations, and that he, Mr. Mussina, could examine the original papers at his office whenever he chose; that witness stated that he did not think Mr. Hale's office the proper place for keeping the papers; and afterwards, witness having been sick for some time, again went to the clerk's office and asked for the translations, and left a note there requesting them to be filed, and that Mr. Mussina made no objections to the translations being made by Mr. Hale, nor did he give his assent thereto; that Mr. Hale had informed witness that he was engaged in making the translations, and witness requested Mr. Hale to file translations of the papers in the clerk's office. Witness had also seen in the hands of Mr. Swett, his counsel, translations certified by Mr. Hale. Upon the translations being filed, witness said, in the clerk's office, but not to Mr. Hale, that he did not think the certificate sufficient.

JAMES LOVE, *Clerk.*

MARCH 21, 1851.

And afterwards, to wit, on the twenty-second day of March of the same year, William G. Hale, esq., of counsel for complainants, filed herein an affidavit of notice, which is in the words and figures following, that is to say:

Affidavit of Notice.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

I, William G. Hale, one of the solicitors of the complainants in the above entitled cause, being duly sworn, depose and say, that, on the same day on which the interrogatories addressed to Thaddeus W. Harris were filed, I gave notice verbally of the fact to Joseph A. Swett, one of the solicitors for the defendants, Belden, Stillman, and Mussina, and who had, and still was, acting for R. Garland, solicitor for the defendants, Fitzpatrick and Shannon, then absent; and at the time of filing the interrogatories to Joaquin Arguelles, Doña Maria Jacinta Olivares and others, and Vicente Lira and others, to wit: the seventeenth day of October, A. D. 1850, or within a few days thereafter, and before taking out the letter rogatory, I informed of the fact of filing R. H. Hord, esq., one of the solicitors of the defendants, and requested him to speak with Mr. Swett about it, and inform me

Is there, or not, some, and what, contract, agreement, or understanding to this effect? And was there, or not, such understanding, contract, or agreement at the time of taking said original deposition in this cause?

2. If the complainants recover in this suit, and obtain a decree in their favor for the land in controversy, and especially for that portion on which Brownsville is situated, are you, or not, by your contract, agreement, or understanding with complainants, or some, and were you, or not, at the time of taking your original deposition, to receive a greater compensation either in money or land than if the defendants recover in this suit?

3. If complainants recover the land in this suit, embracing the town site of Brownsville, is there any contract or agreement between you and said complainants, or any of them, or their agent, by which you are to have any portion of said land or any interest therein? Have you, or not, a contingent interest or benefit dependent on the complainant's recovery of the land in controversy?

4. Do you know those persons originally made complainants, and the same afterwards made defendants in this suit, to wit, Doña Maria Angela Garcia Safen de Tarneva, Don Ramon Safen, Doña Feliciana de Tigerina, and Don Manuel Prieto, or any of them? If yea, how long have you known them, or such of them as you know? Of what country were they citizens, respectively, at the time of the filing of the original bill; of what country have they, respectively, remained or been citizens since? and are they now citizens?

If you cannot speak from your own knowledge, have you heard the complainants, or any of them, or their agent, state any of the facts inquired of in this interrogatory? and if so, please state the same.

5. Do you not know one Juan Treanor, whose deposition has been taken in this cause? Has or has not the said Treanor been the agent of the complainants, or some of them, for conducting or in some manner attending to this suit, since the time of its institution, and has or has not the said Treanor an interest in the result of this suit in favor of the complainants: will he not be benefitted thereby? Is there, or not, some contract, understanding or agreement to the above, or some like effect, and was there, or not, at or prior to the time at which said Treanor gave his deposition in this cause? If you cannot speak of your own knowledge as to the matters in this interrogatory, state if you have heard the said Treanor, or any of the complainants, make statements, and what statements, in regard to the same.

6. If you know anything else which will be a benefit to the defendants in this cause, or any of them, please state the same fully.

JOHNSON & SWETT,
BALLINGER, PATTON, and
R. HOWARD and HORD,

Of Counsel for Defendants.

And afterwards, to wit, on the twenty-eighth day of March of the same year, the court here made an order in this cause, which is in the words and figures following, that is to say:

And afterwards, to wit, on the thirty-first day of March of the same year, the defendants, by their counsel, filed a motion herein, which is in the words and figures following, that is to say :

Motion.

UNITED STATES DISTRICT COURT,

In Chancery, No. 41.

CAVAZOS *et als.* }
 vs. }
 STILLMAN *et als.* }

In the above entitled cause, the defendants, Stillman, Belden and Mussina, by their solicitors, referring to the respective motions to suppress on file, with the leave of the court, do now file the following motion (notice thereof having been given in open court,) based on evidence that has been produced on the part of complainants since the trial of this cause has been commenced, to wit :

They move the court to suppress or to exclude from the evidence in this cause all packages of depositions, exhibits, transcripts, and other papers of every thought and description whatever, that are dependent for their admission upon the affidavit or deposition of William G. Hale, esq., one of the solicitors of the complainants, because it is apparent from his deposition, taken under an order of the court at the hearing, and from the papers on file in this cause, that he is interested in the event of this suit, and that his interest is of such a nature as to render him incompetent to testify in any manner and to any extent in behalf of the complainants. And said defendants, by their solicitors, further move the court to exclude all the depositions and exhibits which have been introduced by the claimants for the reasons noted on the same, and for others apparant on the face of said testimony.

V. E. HOWARD,
For s'd def't.

Filed March 31, 1851.

And afterwards, to wit, on the second day of April of the same year, the defendants, by their counsel, filed a motion herein, which is in the words and figures following, that is to say :

Motion.

DISTRICT COURT OF THE UNITED STATES,

District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
 vs. }
 CHARLES STILLMAN and others. }

The defendants in the above entitled cause, jointly and severally, move this honorable court to dismiss the bill of the complainants at

the hearing for the following causes, among others, apparent on the said bill and in the record and proceedings:

1. That no jurisdiction in this court is shown or exists between the complainants and the defendants, Doña Maria Angela Garcia Safen de Tarneva, Ramon Safen, Feliciana de Tigerina, and Manuel Prieto, and that the said defendants are necessary parties to this suit, and the court can make no decree unless the said parties defendant are shown to be within its jurisdiction, and are properly before the court.

2. That it appears by the complainants' bill and the records and proceedings herein, and the fact is, that the complainants are all aliens, and that the said defendants, Maria Angela Garcia Safen de Tarneva, Ramon Safen, Feliciana de Tigerina, and Manuel Prieto, are also aliens; and that the interests of the said defendants are inseparably blended with that of the complainants, and that said defendants are necessary parties in this cause, without whom no decree can be made, and that this honorable court has no jurisdiction, as between the complainants and said defendants, and, in consequence thereof, no jurisdiction over the said complainants' bill, or to grant the relief prayed, or any of it.

3. That it appears by the said complainants' bill, and by the record and proceedings in this cause, that the complainants do not make such a case as entitles them to any discovery or belief in a court of equity; but that they sue upon a pretended legal title, which must first be established at law; and that their remedy, if any they are entitled to, must be sought in a court of law, and a court of chancery has no jurisdiction over the same.

JOHNSON & SWETT, HOWARD,
BALLINGER & HORD,
Of Counsel for Defendants.

Afterwards, to wit, on the 5th day of April of the same year, complainants, by their counsel, filed a motion herein, which is in the words and figures following, that is to say:

Motion.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }

CHARLES STILLMAN and others.

E. Allen and W. G. Hale, of counsel for the complainants in the above entitled cause, in consequence of the objections raised by the counsel for some of the defendants, and referring to the accompanying affidavits of George B. Innes and John S. Jones, move this honorable court to order that all the papers contained in the packages of depositions taken in the said cause, on the part of the complainants, and numbered from one to seventeen, inclusive, be marked "filed"

by the clerk of this court *nunc pro tunc*, as of the day when the respective packages containing them were opened.

ALLEN & HALE,
Of Counsel for Complainants.

APRIL 5, 1851.

And on the same day and year, and in support of the foregoing motion, the affidavits of George B. Innes and John S. Jones were filed herein, and are in the words and figures following, that is to say :

Affidavits of Innes & Jones.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

I, George B. Innes, being duly sworn, depose and say, that at the time when the depositions taken on behalf of the complainants were returned to the court and opened, I was a deputy clerk of this court, and authorized by James Love, the clerk thereof, to discharge all the duties of his office. On the 15th day of November, A. D. 1850, at the request of William G. Hale, one of the solicitors of the complainants, and under the order of the court, I opened the packages of depositions then on file, and (the said Hale requesting me to do so) in order to identify the several papers contained in each envelope, I proceeded immediately to number the several packages on the envelope, with consecutive numbers, beginning with No. 1 and ending with No. 14 ; and on taking out each paper from the envelope containing it, (which I then did,) I marked it with the number thus placed on the respective envelope. The envelopes had already been marked filed by the clerk, and it has never been the practice in the clerk's office of this court to mark the papers contained in envelopes filed, nor to number them, as above stated, until the request of Mr. Hale was made to me, as before stated. The several papers now in the clerk's office in this cause, marked with the numbers before stated, are the papers so marked by me, and the numbers thereon correspond with the several envelopes containing them at the time of the opening thereof.

I adopted the same course with the papers and envelopes filed in the suit of Rafael Garcia Cavazos *et als.* vs. Simon Mussina.

GEORGE B. INNES.

Sworn to and subscribed before me, this the 5th day of April, A. D. 1851.

JOHN S. JONES,
U. S. Commissioner.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
 CHARLES STILLMAN and others. }

I, John S. Jones, being duly sworn, depose and say, that at the time when the several packages of depositions, marked, as hereinafter stated, 15, 16, and 17, and returned to this court, I was a deputy clerk of this court, and, at the request of William G. Hale, one of the solicitors for the complainants in the above entitled cause, and under the order of the court, I afterwards, on the 24th day of January, A. D. 1851, opened the said packages, and, by the desire of the said William G. Hale, proceeded immediately to mark each envelope with a number, beginning with number 15 and ending with number 17; and in taking out each paper from the envelope containing it, which I then did, I marked it with the number on the respective envelope.

The papers now in the clerk's office in this cause, and bearing the above numbers, are the same so marked by me. It had not before been the practice in the clerk's office in this court, so far as I am acquainted with it, to mark "filed," or identify with a number, as before stated, the papers contained in an envelope.

JOHN S. JONES.

Sworn to and subscribed before me, this 5th day of April, A. D. 1851.

JOHN C. WATROUS.

And afterwards, to wit, on the 8th day of April of the same year, the court here made an order in this cause, which is of the words and figures following, that is to say:

Order of Court.

CAVAZOS *et als.* }
vs. }
 STILLMAN *et als.* }

On a former day of this term of this court, the motion filed by defendants, on the 14th day of March, to suppress the depositions filed in this cause by complainants, having been heard on the first day of the term, after argument of counsel heard, the court took time to consider; and now, on this day, the court being sufficiently advised, it is ordered that the motion be overruled.

And afterwards, to wit, on the 9th day of April of the same year, came Simon Mussina and filed his affidavit herein, which is in the words and figures following, that is to say:

Affidavit of Simon Mussina.

CAVAZOS *et al.* }
 vs. }
 STILLMAN *et al.* }

In Chancery. No. 41.

I, Simon Mussina, attorney in fact for Jacob Mussina, one of the defendants in the above entitled cause, being duly sworn, make oath and say, that it is true, as in the complainants' original bill of complaint stated, that at the time of filing of said original bill Doña Estafana Gozeascochea de Cortina, Doña Feliciana de Tigerina, Doña Angela Garcia Safen de Tarneva, Don Manuel Prieto, and Ramon Safen, who was then a minor, under twenty-one years of age, were aliens to the United States of America and citizens of the State of Tamaulipas, and of the United Mexican States. Affiant further states that he is informed, and verily believes, that the citizenship of said parties has not been changed since that time. Affiant further states that said Ramon Safen is yet a minor and under twenty-one years of age, residing in the city of Matamoras, in the State of Tamaulipas, and that he has been recently informed, and verily believes, that said Manuel Prieto is dead.

SIMON MUSSINA.

Subscribed and sworn to before me, in open court, April 9th, 1851
 JAMES LOVE, *Clerk.*

And afterwards, to wit, on the same day and year, a statement of evidence was offered by defendants, which is in the words and figures following, to wit:

Statement of Evidence.

UNITED STATES DISTRICT COURT.

CAVAZOS and others }
 vs. } No. 41.
 STILLMAN and others. }

In Chancery.

On the hearing of the above entitled cause, the solicitors of the defendants offered to read, in behalf of the defendants, from the addresses and messages of the Presidents of the United States, inaugural, annual, and special, from 1789 to 1846, &c., compiled from official sources by Edwin Williams, in two volumes, published by Edward Walker, in New York, in 1847, from President Tyler's message of the 22d April, 1844, to the Senate of the United States, the first paragraph, as follows:

“To the Senate of the United States: I transmit herewith for your

approval and ratification, a treaty which I have caused to be negotiated between the United States and Texas, whereby the latter, on the conditions therein set forth, has conveyed all its right of separate and independent sovereignty and jurisdiction to the United States. In taking so important a step, I have been influenced by what appeared to me to be the most controlling considerations of public policy and the general good; and in having accomplished it, should it meet your approval, the government will have succeeded in reclaiming the territory which formerly constituted a portion, as it is confidently believed, of its domain, under the treaty of cession of 1803, by France to the United States."

Also from the inaugural address of President James K. Polk, March 4, 1845 :

"The republic of Texas has made known her desire to come into our Union, to form a part of our confederacy, and to enjoy with us the blessings of liberty, secured and guaranteed by our Constitution. Texas was once a part of our country, was unwisely ceded to a foreign power, is now independent, and possesses an undoubted right to dispose of part or the whole of her territory, and to merge her sovereignty as a separate and independent State in ours. I congratulate my country that, by an act of the late Congress of the United States, the assent of this government has been given to the re-union, and it only remains for the two countries to agree upon the terms, to consummate an object so important to both."

In connexion with the offer of the foregoing extracts, it was suggested that the executive documents, published by the authority of Congress for the years preceding annexation, have not been furnished to the United States district court, nor to the United States officers for this district; and that the Congressional Globe and Appendix for the years 1844 and 1845 do not contain the messages nor address from which the said extracts were made; and that the solicitors for the defendants were not able to procure copies of said message and addresses in a more authentic form.

Which evidence was objected to by complainants, and objection sustained by the court.

JAMES LOVE, *Clerk.*

And afterwards, on the eleventh day of April of the same year, the court made an order in this cause, which is as follows, that is to say :

Order of Court.

RAFAEL GARCIA CAVAZOS *et als.* }

vs.

CHARLES STILLMAN *et als.* }

On motion of counsel, it is ordered by the court that the papers and exhibits enclosed in the depositions taken in this cause be marked filed by the clerk of the court *nunc pro tunc*, as of the day upon which said depositions were opened and publication made.

And afterwards, to wit, on the same day and year, the complainants, by their counsel, filed a motion herein, which is in the words and figures following, that is to say :

Motion.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

E. Allen and W. G. Hale, of counsel for the complainants in the above entitled cause, move this honorable court, in case it should appear upon the argument and final hearing of this cause that the bill of complaint herein ought to be amended in any small matter, so as to correspond more fully with the proof, to allow the same to be done without prejudice to the testimony taken in this cause, or to the hearing and final determination thereof.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Complainants.

APRIL 11, 1851.

And afterwards, to wit, on the 12th day of April of the same year, the complainants filed herein a paper containing objections to testimony of defendants, which is in the words and figures following, that is to say:

Statement of objections to defendants' testimony.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

The defendants, at the hearing of this cause, offered to read in evidence parts of certain letters from the Secretary of State of the United States to Messrs. Monroe and Pinckney, Ministers Plenipotentiary of the United States, and to Don Luis de Onis, Minister Plenipotentiary of Spain accredited to the United States; and also a part of a letter from Messrs. Monroe and Pinckney to M. Talleyrand, contained in the "American State Papers," for the purpose of showing that in 1781, and thereafter, the province of Louisiana extended to the Rio Grande, and that after 1803 the country east of the belonged to the United States of America, to which the complainants objected for the following reasons:

1. Because the testimony is irrelevant, incomplete, and does not tend to prove any allegation in the answers of the defendants.
2. Because the purpose for which it is offered is different from the purpose stated in the answer of Patrick C. Shannon.

But the court overruled these objections so far as the defendant Shannon was concerned, and admitted the letters above stated to be read in his favor.

JAMES LOVE, *Clerk.*

And afterwards, to wit, on the fourteenth day of April of the same year, defendants, by their counsel, filed a motion herein, which is in the words and figures following, that is to say:

Motion.

IN THE DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

CAVAZOS and others }
vs. }
STILLMAN and others. }

The defendants move the court to strike out and exclude from the evidence in this cause the copy of the *testimonio* of title offered by complainants, because the same has not been shown to be competent and valid proof; has not been sufficiently proved so as to be admissible in evidence; and because the original having been proved and admitted by the court, the said secondary evidence is not admissible.

JOHNSON & SWETT,
Attorneys.

I acknowledge service of this.

WM. G. HALE,
For Complainants.

And afterwards, to wit, on the same day and year, William G. Hale, esq., of counsel for complainants, filed his affidavit herein, which said affidavit is in the words and figures following, to wit:

Affidavit of W. G. Hale.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

Affidavit made *viva voce* at the hearing by William G. Hale, and reduced to writing:

I, William G. Hale, one of the solicitors of the complainants in the above entitled cause, make oath and say, that on the 12th day of June, 1850, I informed Joseph A. Swett, esquire, one of the solicitors for the defendants, Belden, Stillman, and Mussina, and who had been for some time acting for R. Garland, esq., the solicitor for the defendant Shannon, that I had filed interrogatories to take the depositions of Thaddeus William Harris; and on the 27th day of July, A. D. 1850, as I believe, I also informed the said Swett that I had filed in-

interrogatories addressed to W. Richardson, Hamilton Stewart, and S. M. Williams. The last fact I remember alone from this circumstance, that it has been my practice in every instance where I gave notice of the filing of interrogatories in this cause, to give it on the day of entering it on the order book of the court; and that I actually gave notice in this instance I am satisfied mainly from Mr. Swett's recollection of the fact, my own not being of itself and without his assurance perfectly distinct. I have always considered that notice on the order book was sufficient, but from peculiar circumstances I have attempted to give verbal notice in every instance where it was practicable.

WILLIAM G. HALE.

Sworn to and subscribed before me, this 14th day of April, A. D. 1851.

JOHN S. JONES,
U. S. Commissioner.

And afterwards, to wit, on the same day and year, the court here made an order in this cause, which is in the words and figures following, to wit:

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others.

This cause came on to be heard at the preceding term of this court, and, not having been concluded, was continued at this term, and the testimony therein having been closed, it was submitted by the counsel for complainants and defendants upon briefs, and the court, not being fully advised, took time to consider of the decree until next term.

And afterwards, to wit, on the same day and year, the court here made an order in this cause, which is in the words and figures following, that is to say:

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others.

The motion of defendants, filed on this day, to strike out and exclude certain testimony mentioned in said motion, and read in this cause, came on to be heard, and, after argument of counsel heard, it is ordered that the motion be overruled.

And afterwards, to wit, on the same day and year, the court here made an order in this cause, which is in the words and figures following, that is to say:

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
 vs.
 CHARLES STILLMAN and others. }

It is ordered that the motion of defendants, heretofore filed in this cause, and praying the court to dismiss complainants' bill for want of jurisdiction, be reserved by the court for decision until the decree of the court shall be rendered herein.

And on the same day and year the court here made an order in this cause, in the words and figures following, to wit:

Order of Court.

RAFAEL GARCIA CAVAZOS and others }
 vs.
 CHARLES STILLMAN and others. }

On this day came on to be heard the motion of counsel for Stillman and Belden, and Jacob Mussina, filed on the 3d day of March, 1851, praying the court to suppress depositions and exclude testimony of complainants. After argument of counsel heard, and the court being sufficiently advised, it is ordered that the motion be overruled.

And afterwards, to wit, on the 15th day of April of the same year, there was filed in the clerk's office of our said court, by the clerk, the following statement of the proceedings herein at the hearing of this cause, that is to say:

Statement of Proceedings.

DISTRICT COURT OF THE UNITED STATES,
 District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
 vs.
 CHARLES STILLMAN and others. }

The following was the order of the proceedings in the above entitled cause:

The counsel for the complainants read the bill of complaint and the amendments thereto, filed on the second of June and the seventh of July, 1849, and the nineteenth of June, 1850; and the counsel for the several defendants read their answers on file and the amendments thereto; and thereupon the counsel for the complainants read the amendment to the bill, filed on the second day of August, 1849, and the several replications, as well as the entry at rules dismissing the bill as to defendants, Fitzpatrick and Chapman, all of which were read as the pleadings in the cause.

And thereafter the counsel for the complainants read in evidence on their part the following testimony, which was admitted by the court, and the objections thereto made by the defendants, and noted upon each document or deposition, were overruled.

1. The deposition of T. W. Harris and the maps annexed.
2. A letter from D. Luis de Onis to J. Q. Adams, dated December 6, 1817, contained in American State Papers, Foreign Relations, vol. 4th, pp. 450, 451.
3. A letter from the same to the same, dated January 5, 1818, contained in the same work, pp. 455, 460.
4. A passage from "Essai Politique sur le Royaume de la Nouvelle Espagne, par Alexandre de Humboldt, se concedicion. Published at Paris, 1827. Vol. 2d, pp. 217-222. And also the same passage translated in the translation of the same work, made by John Black, and published in London, 1814, pp. 224-230.
5. Maps of the State of Texas, published by J. De Cordova.
6. Map of the country to the northeast of the city of Matamoras, contained in the translations made by Albert C. Ramsay of a work written in Mexico, entitled "The Other Side, or Notes for the History of the War between Mexico and the United States." Published in New York, 1850; opposite page 39.
7. Depositions from Victoria, of D. José Nuñez de Carceres, D. Jesus Cardenas, D. Juan Nepomuceno Molano.
8. Copy of the testimonio de titulo, proved by Molano, marked *L*.
9. Depositions from Camargo, D. Nicolás Garcia Garza, D. Antonio de la Garza Falcen, D. Juan Manuel Ramires.
10. Copy of the testament of Doña Maria Gertudis de la Garza Falcen, marked *F*.
11. Depositions from Reynosa, of D. Romnaldo Guerra, D. José Antonio Zamora, D. Blas Maria Cavazos, D. Zipio Munguinel, D. Antonio de la Garza Rodriguez.
12. Copy of the testament of D. Blas Maria de la Garza, marked *E*.
13. Copy of an entry in the parish register at Reynosa, proved by Rodriguez.
14. Depositions from Matamoras, of D. Antonio Fernandez, D. Jesus de Abrigo.
15. Letter from D. Enrique Villareal to D. Rafael Garcia Cavazos, proved by Abrigo.
16. Deposition from Matamoras of D. Joaquin Arguelles.
17. Copy of the testament of Doña Maria Francisca Cavazos, marked *A*. Copy of the act of partition, marked *B*. Document marked *D*.
18. Depositions from Matamoras of D. Juan Longoria y Leona, D. Pio Quinto Ignesa, D. Marces Galindo, D. Juan Prado, D. Calixto Portilla.
19. Depositions from Camargo of D. Santiago Dominguez.
20. Copy of the testimonio of D. Blas Maria de la Garza, marked *FF*.
21. Deposition from Matamoras of D. José Maria Rodriguez.
23. Depositions from Matamoras, of D. Domingo Guerra, D. To-

mas Guerra, D. José Maria Medrano, D. José Maria Villareal, D. Vincente Lira.

24. Depositions from Matamoras of Doña Maria Jacinta Olivares, D. Tomas Guerra, D. Domingo Guerra.

25. Deposition from Matamoras of Don Joaquin Arguëlles.

26. Part of document *CR*, proved by Arguëlles, as marked.

27. Deposition of William G. Hale, retaken under the order of the court.

28. Testimony of Charles Rosignol, taken *viva voce*, and reduced to writing.

29. Papers marked *DE*, *FG*, *OP*, *GH*, proved by Hale and Rosignol.

30. Deposition of O'Docharty, marked No. 3.

31. Testimony taken *viva voce* of George B. Innes, and reduced to writing.

32. O'Docharty's plat of surveys, marked *A*.

33. Testimony taken *viva voce* under the order of court, and reduced to writing, of William G. Hale, Robert H. Hord, Charles Rosignol and John S. Jones, and tracing paper annexed.

34. Original testimonio de titulo.

35. Passage from a letter from N. P. Trist to James Buchanan, dated January 25, 1848, contained in Executive Document No. 52, 1st session 30th Congress, pp. 288, 293. Letter from the Mexican commissioners to Mr. Trist, September 6, 1847, in same document, pp. 335-338. Message of the President, in Executive Document No. 50, second session 30th Congress, pp. 1-9. Letters from Messrs. Sevier and Clifford to Mr. Buchanan, May 30, 1848, and papers annexed, in same document, pp. 75-79.

The following answers were read as admissions in pleading :

36. Answer of Jacob Mussina to interrogatory first, as marked ; to interrogatory second, as marked ; to interrogatory fifth, as marked.

37. Answer of Samuel A. Belden and Charles Stillman to interrogatory first and amendments 6th and 4th ; to interrogatory second and amendments 8th and 1st, as noted ; to interrogatory third ; to interrogatory fifth.

38. Answer of Patrick C. Shannon to interrogatory first, to " who earned," as marked ; to interrogatory second ; to interrogatory fifth.

39. Copy of the agreement between Belden, Stillman and Mussina, marked *X*.

40. Copy of deed from Nicolas José Cavazos to Patrick C. Shannon, and copy of ayuntamiento grant annexed, marked *CC*.

41. Deposition of Willard Richardson and marked advertisements on the newspapers annexed.

And thereupon the counsel for the complainants stated that they rested their case, reserving the right to introduce rebutting testimony, if it should be necessary or proper.

The defendants then read as testimony, on the motion to dismiss, the bill for want of jurisdiction—

1. The introductory clause in the original bill as evidence in the cause.

2. Letters from the Secretary of State of the United States to

Messrs. Monroe and Pinckney, April 4, 1804, p. 630, vol. 2, American State Papers, part enclosed in brackets.

3. Letter from Mr. Monroe to M. Talleyrand, Paris, November 8, 1804, p. 634, vol. 2, same.

4. Letters from Messrs. Monroe and Pinckney to Mr. Cavalles, Aranjuez, January 28, 1805, page 637, vol. 2d, same.

5. Letter from Secretary of State of the United States to Don Luis de Onis, June 10, 1816, page 430, vol. iv., same.

6. Same to same, March 12, 1818, page 470 to 475, vol. iv., same.

7. Depositions of Urbano Perez and Joaquin Arguelles, and exhibits or documents attached thereto, *A, B, C, D, E, F, G, K*, and *HS*, are read on behalf of Stillman and Belden, offered and rejected for the other defendants.

8. Exhibits or documents attached to the deposition of W. G. Hale, *LM, XY, ZZ*.

9. Exhibits attached to the depositions of complainants taken at Victoria, *J*.

10. Deposition of Manuel de la Viña, except part excluded.

11. Deposition of Budd H. Fry, and exhibits accompanying same, from 1 to , inclusive.

12. Deposition of George W. Smyth, and all the documents accompanying the same, except the caveat.

13. Deposition of George Lyon, except parts excluded, and all the documents accompanying the same; also the map.

14. Depositions of Israel B. Bigelow and Francis J. Parker.

15. Statement in original bill of complainants, page 5, lines 4 to 9 from the bottom, in brackets.

16. Answer of Patrick C. Shannon to first interrogatory, except part in brackets excluded; to 2d interrogatory; to 3d interrogatory, except part in brackets ruled out.

17. Answers of Belden and Stillman to 1st interrogatory; to 2d interrogatory, except the part amended; to 3d interrogatory; to 5th interrogatory; also amended answers read by complainants, being amendments 1, 4, 6, 8, second.

18. Map made by George Lyon, referred to in 9th amendment of Belden and Stillman.

19. Answer of Jacob Mussina, same parts read by complainants.

20. Testimony of R. H. Hord.

And thereafter the counsel for the complainants gave in evidence the following testimony, as tending to rebut the defendant's case:

1. Depositions from Victoria, D. Rufino Rodriguez and D. Antonio Jimenes.

2. Documents marked *G, H, I, J, K*, proved by Rodriguez and Valdes.

3. Documents marked *AT, BS*, proved by Arguëlles.

4. Constitution of Tamaulipas, marked *N*.

5. Colonization law of 1826, " *P*.

6. Document marked *UV*, proved by Hale and Rosignol.

7. Document marked *O*, proved by defendants' witnesses, Perez and Arguëlles.

8. Deposition of O'Docharty, No. 4.

10. Document marked *N*, proved by defendants' witnesses.
11. Document marked *X*, proved by Juan Prado.
12. Deposition of D. Manuel Rijon, taken for defendants, Belden and Stillman.

And thereupon the counsel for the complainants closed the testimony upon their part, and the counsel for the several defendants did so likewise.

And the several parties complainants and defendants also read the several translations of the documents in the Spanish language, adduced by them in evidence, which are on file in this cause, at the same time that they read the originals thereof. And the testimony in the cause having thus been concluded, it was submitted upon briefs to the consideration of the court.

JAMES LOVE,
Clerk.

APRIL 15, 1851.

Proceedings at the Hearing.

(The deposition of T. W. Harris, and the maps annexed.)

The President of the United States to Edmund B. Otis, Augustus C. Allen, Thomas H. Duval, and E. P. Hunt, or either of them, greeting :

Know ye, that I, in consequence of your prudence and fidelity, have appointed, and by these presents do give unto you and each of you full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be delivered to you in a cause now depending and at issue in chancery in the district court of the United States for the district of Texas, wherein Rafael Garcia Cavazos and others are complainants, and Charles Stillman and others are defendants. And therefore I command that one of you do, at certain days and places to be appointed for that purpose, cause the witnesses to be named in the title to said interrogatories, or such of them as shall be delivered unto you, to come before you, and then and there examine them apart upon the said interrogatories, either upon their respective corporal oaths first taken before you upon the Holy Evangelists, or in case of Quakers, upon their solemn affirmation and declaration, or in such other solemn manner as is or may be authorized by law, and that you do take such their examinations and reduce them into writing; and when you shall have so taken them, you are to send the same to the clerk of the above named court without delay whatsoever; it shall be closed up, and under your seal distinctly and plainly set, together with the said interrogatories and this writ. And I further command you that, before you act in or be present at the swearing or examining of any witness or witnesses, you do take and subscribe the oaths specified in the schedule hereunto annexed, before a commissioner of the United States or a judge of some court of record.

[SEAL OF U. S. D. C. D. OF T.] Witness the Honorable John C. Watrous, judge of the district court of the United States for the district of Texas and seal of the said court, this twenty-seventh day July, in the year of our Lord one thousand eight hundred and fifty.

JAMES LOVE, *Clerk.*

I will, according to the best of my knowledge and skill, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness or witnesses produced and examined by virtue of the commission annexed, upon the interrogatories delivered to me, and I will not publish, disclose, or make known to any person or persons whatsoever the contents of all or any of the depositions of the witnesses, or any of them, to be taken by me, until publication shall pass, pursuant to some general or special order of the court wherein the same are taken. So help me God.

EDMUND B. OTIS.

Subscribed and sworn to this 29th day of August, A. D. 1850, before me.

EDWARD G. LORING,
Comm'r United States C'ts, District of Massachusetts.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be administered to Thaddeus William Harris, a witness to be produced, sworn, and examined in a certain cause now depending in chancery in the district court of the United States for the district of Texas, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto are defendants, on the part of the said complainants:

Interrogatory first. Do you know the parties in this cause, or any, and whom of them?

Interrogatory second. What office or post do you hold in Harvard University, and in particular what office in relation to the library of said university?

Interrogatory third. Is there, or not, under your charge, and if so, in what capacity or by virtue of what office, a collection of maps of different portions of the American continent, and in particular of Mexico; if so, from whom and how was said collection procured?

Interrogatory fourth. Look at the several sketches or copies of maps and portions thereof, marked *I, II, III, IV, V, VI, VII, VIII, IX, X, XI, XII*, and state whether they are true copies of and from maps, plans, and sketches making part of the said collection under your charge. State particularly with regard to each copy, who was the author or compiler of the map of which it is a copy, and when and where was such map published, and what is its reputation for accuracy.

Interrogatory fifth, and last. Do you know anything else which may be a benefit or advantage to any of the parties at issue in this cause, or material to the subject of this your examination? If yea, set it forth fully and at large in your answer.

EBN. ALLEN & WM. G. HALE,
Counsel for Complainants.

I, James Love, clerk of the district court of the United States for the district of Texas, do hereby certify that the foregoing is a true and correct copy of the original interrogatories filed in this office June 12, 1850, to be administered to Thaddeus William Harris, in the case of Rafael Garcia Cavazos and others against Charles Stillman and others.

JAMES LOVE, *Clerk.*

The deposition of Thaddeus William Harris, of Cambridge, in the county of Middlesex and Commonwealth of Massachusetts, librarian of the library of Harvard University, to be used in a cause now pending and at issue in chancery in the district court of the United States for the district of Texas, wherein Rafael Garcia Cavazos and others are complainants, and Charles Stillman and others are defendants :

I, Thaddeus William Harris, of Cambridge, in the county of Middlesex and Commonwealth of Massachusetts, librarian of the library of Harvard University, of the age of fifty-four years, on oath, depose and say, in answer to the several interrogatories annexed to the foregoing commission, as follows, viz :

To the first interrogatory. I answer that I do not know the parties to this cause, or any, or either of them.

To the second interrogatory. I answer that I am the librarian of Harvard College, otherwise called Harvard University.

To the third interrogatory. I answer that there is under my charge, by virtue of my office of librarian of said college, a large collection of maps, including maps of the American continent and of Mexico, which is contained in the library under my care. The largest portion of said collection belonged originally to Professor Ebbling, of Hamburg. Soon after Professor Ebbling's decease, which took place in 1817, his American library, with all his maps and charts, were purchased by Col. Thorndike's agent in Germany, and presented to Harvard College. Another considerable portion of the collection was made by Mr. Warden, the American consul at Paris, and was presented to Harvard College by Mr. S. A. Elliot, of Boston. Said collection under my charge is the largest and most complete in the United States, and so far as America is concerned, it is believed to be one of the best in existence.

To the fourth interrogatory. I answer that the several maps annexed to this deposition, and numbered from I to XI, inclusive, are copies of portions of the collection above named, and that they appear to have been correctly traced. The titles, authors, dates, and places of publication of the several maps from which the copies hereto annexed have been made, are correctly stated on said copies, reference to which may be had as a part of this deposition. The original maps are authentic works, and they appear to have been compiled from authentic materials, or such as were so considered at the time. I cannot pretend to decide upon the particular merits of each one, with an exception to be hereafter noted. The map numbered VII, and hereto annexed, is a copy of a portion of a map in a work entitled "Atlas Geographique et Physique du Royaume de la Nouvelle Espagne Fondé sur des observations astronomiques, des mesures

Trigonometriques et des Nivellemens Barometriques par Al. de Humboldt, Chez D. Dufour et Cie. Rue de Mathurinus No. 7, 1812, d'l'imprimerie de J. H. Stône, Editeur des ouvrages de M. de Humboldt." 1 vol. in folio, intended to illustrate Humboldt's "Essai Politique." The original map has always been considered as of first-rate authority, and Humboldt states in his Essai (Black's translation, vol. 1, p. 2) that it was drawn up at the Real Seminario de Minería in the year 1803, a short time after his departure from the city of Mexico, and further states (p. 263) that his "General Map of New Spain is the only one which contains the limits of the intendencies established since 1776."

To the fifth and last interrogatory. I answer that I do not know anything further which might be a benefit to any of the parties at issue in this case.

Subscribed and sworn to, this 29th day of August, 1850.

THADDEUS WILLIAM HARRIS.

UNITED STATES OF AMERICA,
District of Massachusetts.

On the 9th day of August, in the year eighteen hundred and fifty, by virtue of the foregoing commission, I caused the above named Thaddeus William Harrison, the deponent to whom the foregoing interrogatories are addressed, to come before me, in Boston, in the county of Suffolk, in said district of Massachusetts; and he being then and there duly cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in answer to the several interrogatories thereto annexed, gave the foregoing answers, by him subscribed in my presence, and the same were by me reduced to writing in his presence; and I hereby certify that I have conformed to the instructions contained in the foregoing commission in every particular.

EDMUND B. OTIS,
Commissioner.

Fourth interrogatory objected to by defendants because the exhibits referred to do not accompany the interrogatories and are not identified therewith; and answers to same objected to because the exhibits set forth are not identified with those referred to in the interrogatories. Exhibits objected to because not sufficiently identified by the commissioner; objections overruled, and read as evidence.

JAMES LOVE, *Clerk.*

MARCH 14, 1851.

Objected to by defendants because the last interrogatory is not in the form prescribed by the rule of the Supreme Court, and because the answer is not full to the question propounded. Heard and overruled on the 14th March, 1851.

JAMES LOVE, *Clerk.*

Exhibits attached to deposition of T. W. Harris.

(For maps, numbered from 1 to 9, inclusive, see original, page 514.)

Letter from D. Luis de Onís to the Secretary of State.

DECEMBER 6, 1817.

SIR: The message of the President embraces two particular points in the paragraph in which he relates the actual state of the political relations between Spain and the United States, of which I wish to have a precise and exact knowledge, to reconcile their true meaning with the sincerity and felicity of the sentiments of which the American government makes profession, in conformity with those which animate his Catholic Majesty, when he anxiously seeks all possible means of settling the differences pending between the two nations, and of strengthening his friendship and the good understanding with the United States on a basis which, being confirmed by the most generous principles of good faith and mutual justice, may be lasting and unalterable, without leaving the seeds of discontent, or ground for fresh differences in future.

The two points I speak of are, first, what relates to Amelia island, and, secondly, what concerns Galveston.

The President announces, in respect to the first, that this island, having been taken possession of by a party of people who belong to no country, or if they have belonged to any, they have by their conduct forfeited all right of public consideration or toleration, they having established in the said island a place of refuge, scandalous by its piracies, and seriously prejudicial by a contraband trade to the United States, chiefly in what regards the clandestine introduction of negroes into the territories of the Union, and the carrying off or flight of others from the same country, his excellency has, therefore, determined to put a stop to this evil, and has given orders accordingly.

It is my duty to remind you, sir, that the expedition which took possession of Amelia island was formed and armed at Charleston and Savannah, under the command of the adventurer, Sir Gregor McGregor, and wholly composed of citizens of this republic, in violation of the laws of the United States, the law of nations, and the existing treaty between Spain and the said States. I denounced this expedition to you at the time, and invoked the efficacious authority of the federal government to prevent it, and punish the offenders. The expedition proceeded, notwithstanding, from the limits and ports of the Union, to invade that island, and there committed the excesses on which the President touches. After McGregor had left Amelia island, the district court of South Carolina issued a bench writ to apprehend him, wherever he might be found within the American territories. This writ could not certainly be issued without a legal evidence of the offence, nor could the offence be more enormous or more notorious in the face of the whole Union. It results from this, that there could be no just ground for converting into an act of hostility, or of public detriment to Spain, the evils which have flowed from the toleration of similar armaments in the bosom of this Union—armaments which had for their object the invasion and plunder of the possessions of a friendly power.

I therefore request you, sir, to be pleased to inform me of the measures the President may have taken on this point, and of his intentions in relation to it, in order that, by informing the authorities of the king in East Florida thereof, these discontents may be avoided, to which an erroneous conception may give rise, and all unfortunate impressions dissipated which might disturb the lively and sincere desire of conciliation and perfect harmony which actuates his Catholic Majesty.

On the second point, relating to Galveston, the President announces that, in that place, which it is contended falls within the limits of the United States, in consequence of the acquisition of Louisiana, a number of vagrant persons had before established themselves, and committed acts of piracy very prejudicial to the trade of the United States, and that, therefore, his excellency had also taken measures to correct those abuses.

There are two things which I have to remark on this point. The first is, that the place of Galveston has not been, nor ever could be, within the limits of Louisiana, because at no time did it make a part of it. It has constantly belonged to the crown of Spain, as a territory absolutely unconnected with and distinct from Louisiana, and, as such, ought to be maintained and protected until the United States produce documents which establish their rights, and annul the titles, till now undisputed, of property and possession on the part of Spain, from the earliest times of its discovery and conquest until the present; and this will be determined as there may be occasion for it, and may be just, at the time of amicably arranging the question of boundaries between the two nations, as his Catholic Majesty sincerely and most earnestly desires, and as I have a hope to verify in a short time, in his royal name, by means of the negotiation which we have established.

The second thing which I have to recall to you is, that the king's troops drove off from Matagorda the vagabond freebooters who had taken possession of that point, in consequence of which the same adventurers were forced to evacuate Galveston, where they had also established themselves, so that neither of these places was afterwards attacked or infested by them or any other banditti. Moreover, if by the occupation of Galveston, at that time, the United States have sustained injuries, it is notorious that Spain has suffered much greater, by the facility afforded to the pirates in capturing Spanish vessels, carrying them into that place, and there selling them to the citizens of this Union. That, from this magazine of plunder, they conveyed the Spanish property to New Orleans and other parts of the United States, in American vessels, as is well known to you, sir, and to all the world. In any event, when the injuries reciprocally caused to American citizens by the government or subjects of Spain, or to the latter by the government or citizens of the United States, are compared or estimated, such an indemnification will be stipulated as is agreeable to justice and good faith.

These remarks, and others equally obvious, cannot fail to convince you—I am sure they will convince the whole world—that there was not the smallest motive for proceeding to acts of violence on either of the two points which form the subject of this note, and on which the President has touched in his message. I hope that the intentions of

his excellency will not differ from this opinion, and as well to avoid the disagreeable consequences which might arise from a misunderstanding, as to communicate to the king, my master, the true state of things, I have to request of you, sir, as I now do, a precise and satisfactory explanation on the above mentioned two points, namely, of the measures taken by the President in relation to them, and of his intentions upon the subject. I flatter myself that you will have the goodness to give me the said explanation as speedily as the case requires, and, in the mean time, allow me to renew the assurances of my high consideration and respect.

LUIS D. ONIS.

A letter from the same to the same.

WASHINGTON, January 5, 1818.

SIR: In my note of the 29th of last month I proved to you, to a degree of moral demonstration which I think to be fully convincing, what are and ought to be the eastern boundaries of Louisiana, and I hope such incontrovertible decisive reasons cannot fail to bring you fairly to acknowledge that Louisiana neither does nor can include any part of West Florida. As I have not yet received your answer to the said note, it was my intention to wait for it, and not proceed to the examination of the second point of the question of boundaries, before we had agreed on and settled what relates to the first. In order to proceed methodically, and not to involve or embarrass the plain and expeditious course of this investigation, but being desirous of not losing an instant in explaining every point relative to so important a matter, I anticipate the examination of the western boundaries of Louisiana, which is the second point of the question, thereby facilitating whatever may claim your attention as to both in their respective order, and enabling you to comprehend the truth at once.

I might contend that the United States having received the province of Louisiana from France with no greater extent than it had when France received it from Spain in 1800, and when Spain acquired it from France in 1764, that, and no other, ought to be the extent which properly belongs to it, without the necessity of recurring to any other reasons or grounds than those resulting from the treaty of St. Ildefonso. Since Spain having ceded back to France in 1800 only what she had received from her in 1764, being that which France sold to the United States, it is easy to investigate and establish what were, and in all that period continued to be, the proper extent and limits of Louisiana. But I am willing to admit that France did substitute the United States in all the rights and pretensions she had, or could have, as to what regards the western boundary of that colony when hers, although nothing to that effect is expressed or insinuated in the treaty between France and the United States, by which the latter acquired it; and that the contrary is evidently to be inferred from the fact that France inserted, word for word, in this treaty, the conclusive clauses of that of St. Ildefonso, which speak simply and precisely of the retrocession of Louisiana. I admit (to go into a more copious and irresistible demonstration) that

the United States have succeeded to all the rights which France may have had at another period, and I call your attention, sir, to the following observations before I enter on the examination of the data or grounds on which the United States rest their claims of extending in that quarter the boundaries of Louisiana to the Rio Bravo del Norte.

It is well known that for ages before France thought of forming establishments on the Mississippi, and therefore long before she had made any in Canada, the crown of Spain possessed the whole territory around the Gulf of Mexico, from the peninsula of Yucatan to the southern cape of Florida. If the eastern part of said Gulf as far as Panuco, the whole of which was then known under the extensive (generic) name of Florida, was not actually peopled by Spaniards, it was notorious and indubitable that it was discovered by them as early as the year 1511, under the expedition of Juan Ponce de Leon; that all the coast from the present Florida to Panuco was explored by Francisco de Garay, in 1518, and also by Hernando de Soto, and continually by other Spanish commanders until 1561, when it was explored and described by Angel de Villafane and Jorge Ceron, said discoveries and description having been made in pursuance of a royal order issued for that purpose, papers of that description being still extant; and it was confirmed that from these remote periods Spain was established as the mistress and possessor of all that coast and territory, and that she never permitted foreigners to enter the Gulf of Mexico, nor any of the territories lying around it, having repeated the royal orders by which she then enforced the said prohibition, and charged the Spanish viceroys and governors with the most strict observance of the same.

The right and dominion of the crown of Spain to the northwest coast of America, as high up as the Californias, is not less certain and indisputable, the Spaniards having explored it as far as the forty-seventh degree in the expedition under Juan de Fuca, in 1592, and in that under the Admiral Fonte to the fifty-fifth degree, in 1640.

The dominion of Spain in these vast regions being thus established, and her rights of possession, conquest, and discovery, being never disputed, she could scarcely possess a property founded on more respectable principles, whether of the law of nations, of public law, or any others which serve as a basis to such acquisitions, as all the independent kingdoms and states of the earth consist of.

Confining ourselves at present to the Mexican Gulf and to the Spanish provinces situated to the westward of Louisiana, we shall see in what manner Spain extended her population and founded settlements in different parts of the vast territory of which she was the mistress and possessor in this part of the New World. All the country extending from the Rio de las Palmas to the confines of Panuco, in latitude forty-eight degrees, was then included under the name of Florida, and crossed the Mississippi. From the time of the expedition undertaken to explore it in 1512 by Juan Ponce, in 1525 by Vasquez de Ayllon, in 1527 by Panfilo Narvaez, and in 1538 by Hernando de Soto, the Spaniards were incessantly engaged in advancing their discoveries and settlements in this extensive country

not only in the time of Luis Mozeozo and of Pedro Melendez, between the years 1542 and 1545, but they were constantly so in the time of all their successors. At the time of their first expedition they landed in the bays of Santa Roso and Espiritu Santo, or St. Bernardo, surveyed the whole coast, and crossed the Mississippi. They penetrated into the countries of Hirrhigua, Mozeozo, Umbaracuxi, Aurera, Oculi Apalache, Altapalia, Cofa, Mobile, Chasquni, Guigate, Uhangué, Guachaya, and others which it would be tedious to enumerate. The same Hernando de Soto, after having in person surveyed the coast and interior of the country, crossed the Mississippi and penetrated as far as the Rio Negro, in 1542 died at Guachaya.

No European nation had yet attempted to disturb the Spaniards in their possessions in the New World. None had trod on any point of these territories, and the Spaniards continued extending their establishments as the only nation which had acquired the possession and the property of that part of the American continent and islands. They gave rise to the new kingdoms of Leon and Santander in 1595, and to the province of Coahuila in 1600. They founded that of Texas in 1690, establishing missions, hamlets, and posts, under the name of Presidios, such as those of Bahia del Refugio, San Antonio, Esperitu Santo, San Juan, Nacogdoches, Ayeses, and San Miguel de los Ados, a short distance from the Rio Roxo (Red River,) extending themselves to the banks of that river.

Long before they had established themselves in Mexico, where they built the capital of Santa Fé, in thirty-nine degrees north latitude, and opened and worked mines in its neighborhood. From thence they spread themselves wide of the rivers that empty from north and south into the Missouri, communicating and trading with the Indian nations. So that from that time Spain considered all the territory lying to the east and north of New Mexico, as far as the Mississippi and Missouri, as her property. These dominions or settlements of the crown of Spain were connected with those which she had in the Gulf of Mexico, that is to say, with those of Florida and the coast of the province of Texas, which, being on the same Gulf, must be acknowledged to belong to Spain, since the whole circumference of the Gulf was hers, which property, incontestably acquired, she had constantly maintained among her possessions, not because she occupied it throughout its whole extent, which was impossible, but on the principle generally recognized, that the property of a lake or narrow sea, and that of a country, however extensive, provided no other power is already established in the interior, is acquired by the occupation of its principal points. These premises being established, and not to be shaken, as they are all supported by history, ancient monuments, tradition, and irrefragable documents, let us proceed to examine for their origin the grounds on which your government maintains its pretensions.

As early as the commencement of the seventeenth century, France and England began to form expeditions in imitation of the Spaniards, and to discover points for settlement in that part of America. The French expeditions penetrated into Canada by the river St. Lawrence, and those of the English were directed to different parts of the coast on the Atlantic. Hence originated the basis on which the two nations

afterwards founded and extended their respective settlements. I shall now only speak of those made by the French, as they serve as a support to the actual pretensions of the United States. Francis Ribaut, an adventurer of that nation, had already penetrated into Florida with some followers, towards the end of the sixteenth century, and built the fort called Charles le Fort; but this rash enterprise on the territory of the crown of Spain was immediately overthrown and dissipated, the Spanish governor, Pedro Melendez, having attacked and taken the fort, and made prisoners of Ribaut and all his people. Mention is likewise made, by some writers, of another Frenchman called René de Sandoniére, who is said to have landed from the squadron of Admiral Coligny on the coast of Florida, in the year 1654, and built a fort, which he named Carolin, about the spot where Pensacola now stands; but the same writers add, that the Spaniards immediately attacked the French, put them to death, and razed the fort or redoubt they had built. Others say that it was on that same fort that the Spaniards afterwards built the fortress of San Augustine, so vague and uncertain is the information respecting these particular adventurers. The story related of a Recollet Friar, called Father Hennepin, is still more ridiculous, who is said to have been made a prisoner by the Indians at the time they were at war with the French of Canada, and taken to the Illinois, whence he was occupied in exploring the country as far as the banks of the river St. Louis or Mississippi, of which he took possession in the name of Louis XIV, and gave it the name of Louisiana (doubtless in his secret thoughts and by a mere mental act.) It is added that this friar escaped from the Illinois and returned into Canada, where he related all that he had seen, and afterwards published it in France, more circumstantially, in a memoir which he dedicated to the celebrated Colbert. These accounts, and others of a like nature, are contemptible in themselves, even though the facts they relate were authentic, since nothing can be inferred from them to favor the idea started by those who speak of these transient adventurers and incursions.

Let us see what importance can be attached to what is said of Bernardo de la Salle, who, in 1679, descended from Canada to the Mississippi, and there built Fort Crevecoeur, according to M. de Pratz, or Fort Prudhomme, according to others. What is certain amounts to this: that he only made a rapid incursion from Canada to the Mississippi, as any other adventurer might do, crossing the territories of another nation; that he returned to Quebec without any further result than that of an imperfect exploration of the country; and that he embarked at Quebec for France, from which he returned in 1684 with an expedition composed of four vessels, commanded by Captain Beaujeau, to explore the mouth of the Mississippi. This expedition entered the Gulf of Mexico on the twelfth of December of the following year. La Salle, being deceived in his reckoning by the currents of the Gulf, could not find the mouth of the river, and, being overtaken by a storm on the coast of the province of Texas, he was obliged to take shelter in the bay of San Bernard. Two of his vessels were captured by the Spanish cruisers, another was lost in the bay, and Beaujeau returned to France in the only one that escaped. La Salle, having

landed with some people and ten pieces of artillery, then built a small fort as a protection against the Indians, and was obliged to change his ground three different times, notwithstanding which the Clancautes Indians, inhabiting the adjoining country, forced him to abandon the fort and retreat by the Rio de la Trinidad (Trinity river.) While on this retreat he formed a project of penetrating into the interior of the country to see if he could discover the fabulous mines of Santa Barbara, but he was assassinated on his route by his own people; and such was the result of the famous French expedition so much talked of. The Indians fell immediately on Fort St. Louis and massacred the small garrison left by La Salle. The remainder of the French who accompanied him shared the same fate. Being dispersed in different directions after the fall of their chief, they perished by the hands of the Indians.

In the meantime, news of this incursion having reached Mexico, the viceroy, fearful of a repetition of similar attempts, held a council of war, to deliberate on the affair, in obedience to the royal order issued by Philip II, enjoining the extermination of all foreigners who would dare to penetrate into the Gulf of Mexico. An expedition was then resolved on, to be formed at Coaquila, under the command of Alonzo de Leon, to scour the country and hunt out the French, if any were still remaining. Having set out with the necessary force, he arrived on the 22d of April, 1689, at the place where La Salle had built Fort St. Louis, and on the 24th at the entrance of the bay, where he fell in with the remains of the French vessel that had been wrecked. Having heard in his march that some of La Salle's companions were still wandering about the country, or had taken refuge with the Indians, he shaped his course towards the nation of the Asamais, and was received by them with marks of friendship and respect. He found, however, no traces of the French, as no more of them were in existence.

Alonzo de Leon treated the Asamais with the greatest kindness, and called them Texas, which, in their language, signifies "friends." On the 22d of May of the same year, he wrote to the viceroy, informing him that there existed neither French nor any other foreigners in the whole country; that the Texas Indians possessed great attachment and good will to the Spaniards; and that it would be very proper to establish missions and garrisons throughout the country to prevent any future attempt or incursion of foreigners, and to preserve the conquest. This subject having been deliberated upon in Mexico, the mission of San Francisco de Texas was founded in 1690, after that nation had voluntarily submitted to the crown of Spain. The viceroy of Mexico continued to take effectual measures for protecting the country and preventing the intrusion of any French adventurers. The court of Spain, on being informed of what had passed, renewed rigorous orders to the same effect, and also gave directions for the instruction and government of the Indians. Such were the objects of the expedition under Don Domingo de Teran, and of that which was effected under the command of Don Gregorio Sabinas, in May, 1693. Since that period the province of Texas has continued in perfect tran-

quillity under the Spanish government, and no further attempts were made by the French to penetrate into any part of it.

You see, sir, that the excursion of La Salle can give France no rights to that province—which had long before been acknowledged to be, and was, incorporated in the Spanish dominions. Such incursion was, in fact, nothing more than the rash attempt of a foreigner to explore part of the territories of another nation, and is not substantially different from that made by Mr. Le Valliant in the country of the Caffres, to the northeast of the Cape of Good Hope, by which, however, France acquired no right to that part of the Dutch possessions, although they were still desert when the said Le Valliant explored them. What territories are there in the world, especially in extensive dominions, still new and thinly peopled, in which excursions of that nature have not been made by individuals of foreign countries, sometimes of neighboring nations, (which is the most common,) and sometimes of those which, although at a distance, actuated by curiosity or ambition, undertake to explore unknown countries inhabited by other people, and governed by other powers. Nor can I refrain from recalling here what has been written and thoroughly investigated touching the pretended settlement of the French in the Illinois and Arkansas.

Whether they were some of the individuals of La Salle's expedition who had survived it, as M. du Prutz has it, or whether they were other adventurers from Canada, it seems, beyond a doubt, that some Frenchmen did penetrate as far as the Arkansas, towards the end of the seventeenth century or the beginning of the eighteenth, on which point, however, the records of that period do not exactly agree. Enterprising people from Canada, both Frenchmen and natives, communicated with the Indian tribes, and penetrated far into the interior to purchase cattle, and for other purposes of traffic. Some of them, therefore, fixed themselves at the post of Arkansas, not as settlers, but as agents to carry on the trade between Canada and the natives of this district. The same took place at the post of the Illinois, long before the first foundation of the French colony of Louisiana was thought of.

Father Marquez, a Jesuit, had penetrated in 1671, as a missionary, into the Indian nation called Salteux, as far as Chaguanigung, on Lake Superior, and in the year following, one Saliet, with a view to explore the Mississippi, proceeded from Canada to Chaguanigung point. After joining Father Marquez, they both advanced and succeeded in penetrating to that river by the Ouisconsin. They met with a considerable population in the country of the Illinois, at the mouth of the river Monigera, and after promising to visit them on their return, they suggested to those Indians the idea of entering the country by the river since called the Illinois, and the Indians did so, and settled in a district known by the name of the Great Rock, or Great Penasco, about five leagues higher up than the mouth of the river. Saliet and Father Marquez could descend the Mississippi no further than Arkansas, and on their return from their excursion they found the Illinois encamped at the mouth of the Great Penasco. Saliet continued his retreat, and Father Marquez determined to remain with these Indians,

to instruct them in the principles of the Christian faith. In this attempt they were succeeded by other missionaries, who afterwards proceeded to found a church there, sufficiently regular, composed of Illinois and Canadians, who had met and united with each other. These people were nowise subject to the French government, but lived independent, in the manner of several Indian nations bordering on the United States. Several other Indians of the Miami and Shawnee tribes came and settled themselves near the Big Rock, or Great Penasco; but they disagreed, and soon after dispersed. A party of the Illinois went down the river and settled at Cahokia, on the left bank of the Mississippi, fifteen or sixteen miles below the mouth of the Illinois. Other missionaries followed them, and thus went on this kind of colony, informal and wandering, but always independent of and unconnected with the French of Canada.

Let us now speak of the settlement of the French in the country called by them Louisiana. The first spot occupied by them in this country was the bay of Biloxi, about thirty leagues to the eastward of the Mississippi, in the year 1699, or, more strictly speaking, in 1700; and Mobile, a little further eastward, where they established themselves, was, during two-and-twenty years, the capital of their new colony. From that time they observed the greatest caution in the settlements they formed on the banks of the Mississippi. Seventeen years had passed since the foundation of their , when they ventured to raise some huts on the left bank of that river; and this was on the spot now occupied by New Orleans, which five years afterwards became the capital of the colony, when the intimate relations between France and Spain, not only by virtue of the family compact, but more particularly by the elevation of Philip V to the throne of Spain, favored the toleration of a dexterous encroachment on a territory which was acknowledged to belong to that monarchy. In 1722 the French succeeded in fixing some German families on the right bank of the river, opposite to the settlements which they already had above and below the city of Orleans. They afterwards settled some Acadians a little higher up, and finally some others at Point Coupée. But the whole limits of these cottages or settlements did not extend to more than fifteen or twenty acres of land upon the front of the river, so that the French, seeing a want of cattle, and feeling the necessity of establishing herds to keep up a supply, turned their views to the extensive and fertile prairies of Attakapas, and the governor of Louisiana thereupon applied to the commandant of the interior provinces of Mexico for permission to establish some herds only, which was frankly granted to him by the Spanish commandant. In fact, they had nothing more than cattle establishments in Attakapas and Opelousas when the colony was transferred to Spain in 1764. They had never gone further, and it is to the Spaniards that the colony is indebted for the extensive population and cultivation of that part of the territory afterwards ceded back to France, and transferred by her to the United States, as was also the case in the settlements of La Fourche, Acoyelles, the Rapides, and Ouchita, which did not previously exist, but were formed by the Spaniards within the proper limits of the monarchy.

From hence you will clearly see, sir, that so far from Spain having retained any point belonging to French Louisiana, when she ceded it back by the treaty of St. Ildefonso, she left incorporated with it many points, settlements, and territories, which in truth did not belong, nor ever had belonged, to the said colony.

It would be too fatiguing to trace step by step all the incursions of the French from Canada, or from Louisiana, into other points of the Spanish dominions, by passing through Indian nations or uninhabited countries. I cannot, however, omit touching on the accidental circumstance which gave rise to their settlement at Kaskaskia, twenty leagues below Cahokia. The inhabitants of Illinois, who had no connexion or dependence whatever on Canada, at length undertook to go down the river and trade with the French at Biloxi and Mobile bay, and these traders having discovered fertile and beautiful prairies on the right of the small river Kaskaskia, several of the French settlers removed thither in the year 1703, and founded what is now the town of Kaskaskia; but they always lived independent and in alliance with the Indians until the Louisiana company sent M. de Boisbriant as the king's lieutenant, with troops to reduce, and direct this settlement. It was afterwards considerably increased in the hands of the French, who successively formed the settlements of Chartres, St. Phillip, Prairie des Roches, and Prairie Dupont, but still, as you perceive, sir, on the left bank of the Mississippi; and it was not until several years afterwards that they settled St. Genevieve, opposite Kaskaskia, on the right of the said river, an inconsiderable settlement, which made no progress until the country was ceded to England.

In fine, all the written documents and historical evidence relating to French Louisiana agree in dividing it into Upper and Lower, and proving that Lower Louisiana is bounded on the north by Bayou Manchac, by which it communicates from the River Mississippi to the Iberville, and that Upper Louisiana commences above the said bayou, the port of Naches being the principal settlement of the French in that quarter, in whose neighborhood they cultivated tobacco. The settlement of Natchitoches, which they afterwards formed, was considered as depending on Upper Louisiana.

It would be easy to prove that this latter settlement was made by the French within Spanish territory, and merely through the condescension or sufferance of the viceroys of Mexico and the governors of the province of Texas. Before the French had founded New Orleans there already existed the Spanish missions or settlements of San Francisco, San Purissima Concepcion, San José, and Nuestra Señora de Guadalupe, at a very short distance from Natchitoches, and the right of property and possession on the part of the crown of Spain to the whole of this territory, as far as the Mississippi, was notorious.

I am aware that the French attacked the missions of Texas during the war between France and Spain, under the regency of the Duke of Orleans; that for this purpose they proceeded from the post of Natchitoches, and that the Spaniards retreated to San Antonio de Bexar, till the governor of the province, the Marquis de Valero, advanced to chastise and keep the enemy in check. This commander

marched against them in 1719, drove them from the Spanish posts, and obliged them to shut themselves up in Natchitoches.

This expedition is connected with the authentic facts of which M. du Pratz has made up a ridiculous and fabulous tale in his history of Louisiana, when he speaks of a Frenchman of the name of St. Dennis, and supposes certain conventions entered into between him and the Duke de Linares, viceroy of Mexico. In 1715 St. Dennis penetrated from Mobile to the Spanish garrison of San Juan Bautista with three companions and a passport, on the pretence of going to buy cattle in the missions of Texas, but in reality to carry on a contraband trade and explore the country. Both he and his companions were seized and conveyed to Mexico. After a variety of adventures, St. Dennis made his escape, and was one of those who set out from Natchitoches with other Frenchmen to attack the inhabitants of Texas, as I have before stated.

After this event, the Marquis de Aguayo came to Texas, re-established the old missions, founded new ones, viz., Pilar Adoes, Soreto, at the Bay of Espiritu Santo, or St. Bernard, and Dolores, known by the name of Orquizaco; he greatly improved San Antonio de Bexar, and placed the whole frontier of the province in a respectable state. Thus the Spanish settlements remained tranquil until Louisiana was ceded to Spain, when the garrisons of Adoes and Orquizaco were suppressed as being no longer necessary.

As a further proof that the post of Natchitoches was acknowledged even by the French as being within the Spanish territory, I shall add two facts: The first is, that when Captain Don Domingo Ramon came with a party to Texas, after St. Dennis and his followers were sent to Mexico, he paid a friendly visit to the French at Natchitoches, and entered that fort with the royal batova and insignia as a sign of the dominion and jurisdiction of Spain, to which the French made no opposition. The second fact is, that, in the year 1792, the French governor of Natchitoches being desirous to remove that fort, which had been injured by an inundation, somewhat further from the bank of the Rio Roxo, the Red river, he waited on the Spanish governor of the Adoes, Don Manuel de Sandoval, and requested the necessary permission to do so. Sandoval granted it, as the site to which he wished to remove it was no further than a musket shot from its former situation. Notwithstanding, the viceroy of Mexico, on being informed of this act of accommodation, highly disapproved it, and despatched Col. Don Francisco de Brito to Adoes to supersede Governor Sandoval, and bring him under a guard to Mexico, to be tried there before a court-martial; which was carried into effect with all the rigor of the law.

It is unquestionable, from the historical series of facts, and the most unexceptionable documents, that the province of Texas extended to the Mississippi, and that the French never crossed the river into that district but through the sufferance or permission of the Spanish governors, and that in consequence of the former abusing the generosity with which they were permitted to trade with the Indians of that territory, and to hold for that purpose only the posts of Natchez and Natchitoches, positive orders were issued to drive the French from

the whole district, and destroy the said posts. The Spanish commandant advanced with a sufficient force to execute these orders; but he acceded to the proposals of the French at Natchitoches, which were confined to this: That Arroyo Hondo, which is midway between Natchitoches and Adoes, should be considered as the dividing line, until the determination of the two courts. In this state things remained without further change, and so continued until the cession of Louisiana to Spain relieved these provinces of Spanish America from all embarrassment and trouble from the French. But it always was an undeniable fact, established by the irresistible titles and documents, that the French neither held, nor had held, to the westward of the Mississippi, in 1719, any other post than Natchitoches, which they held merely by the condescension of Spain, and that the Spanish settlement of the Adoes, only five leagues distant from the Rio Roxo, Red river, existed much earlier, and did so exist until Louisiana was transferred to Spain. The parochial records of Natchitoches and Adoes, with the registers of births, baptisms, and deaths, attest it still more circumstantially, as well as the proceedings of the pastoral visit made in 1805, by Don Primo Feliciano Marin, bishop of the new kingdom of Leon, who visited the district of Adoes and the whole province of Texas.

The right which Spain always had to all the territories to the north and east of New Mexico, as far as the right bank of the Mississippi and Missouri, is proved with equal certainty. All these territories, and the different branches, falls, and waters of the Mississippi, were always comprehended within the line of the Spanish dominion in that part of America, from the earliest periods of its discovery and conquest. Although the French penetrated several times from Mobile and Biloxi to different parts of that line, they never acquired any rights to them. Their excursions were confined to trading or smuggling, or exploring the country. The huts or posts which they had in some Indian nations were trifling establishments, clandestine and precarious, which they were unable to preserve. The Spaniards had traded much earlier than the French with all these Indian nations, with the Missouris, extending along the river of that name, the Paducas, beyond the river La Platte, and still further to the northwest with the Saltanes, and finally with several others, as being within the dominions of the crown of Spain.

The French themselves never disputed the right of the Spaniards to possession and property, nor laid claim to those parts of the territory of the Spanish monarchy. The court of France always took the greatest care not to injure the rights of Spain on all occasions of making grants of land within her settlement of Louisiana, and the French settlers at all times carefully respected the right bank of the Mississippi, throughout its whole extent, as the well known property of Spain. No memorial can be found declaratory of a contrary opinion, except a decree of Louis XIV, dated at Fontainebleau, on the 14th of September, 1812, in favor of M. Crozat, ceding to him and the company formed by him the French settlement of Louisiana, with an ideal and vague demarcation of boundaries, by extending them mentally to New Mexico and the English province of Carolina,

and along the Mississippi from the sea to the Illinois, &c. It is evident that the court of France did not then possess any knowledge of the geography of that country, or that New Mexico was considered as bordering on the Mississippi, notwithstanding Louis XIV had carried his liberality so far in that grant as to give the French company even the rivers Mississippi and Missouri. He might with equal reason have given those of the Amazons, the La Plata, and Orinoko. You are perfectly aware, sir, that the expressions of this grant are vague and absurd. They never could alter the fixed limits of French Louisiana, or of the Spanish possessions. The grant of Louis XIV was always considered as the act of a disordered imagination. The Spaniards constantly preserved their dominion over all the right bank of the Mississippi to the Missouri, and over all the territories and waters from the former to the right shore of the latter. Even the French themselves, notwithstanding this famous grant, never ventured to go beyond the certain and well known limits of their settlement, or violate those of the territory and dominions of the crown of Spain. It is therefore of no consequence to us if such a blunder was committed by those who penned the said grant at Fontainebleau. If a document of this nature was sufficient to dispossess a nation of its dominions, or any part of them, what security could there be in any part of the possessions of independent kingdoms and states? Can there be a mind capable of conceiving that such a paper can fail to be absurd and completely despicable, since it never took effect, has always been resisted as rash and extravagant, and since the incontestable rights of Spain to the property and possession of the said territories existed then, and do still exist? Certainly not.

The court of France was immediately sensible of the extravagance of that grant, as no further mention was made of it. On the contrary, when it ceded Louisiana to Spain, in 1764, M. Kerlet, who had been many years governor of that province, was ordered to draw up a memoir containing a description of its proper extent and limits. This memoir, delivered by the Duke of Choiseul, minister of France, to the Spanish ambassador at Paris, as a supplement to the act of cession of Louisiana, agrees substantially with that which I have just now pointed out. I would carry this demonstration still further if I thought it necessary, and I will do so if you shall have anything to object to it. In the meantime, I now confine myself to declare to you, sir, and to the government of the United States, in the name of the king, my master, that although Spain has an original and indisputable to all the right bank of the Mississippi, his Majesty has resolved to claim this right solely with a view to adhere to the *uti possidetis*, or state of possession in which the crown of Spain was when she acquired Louisiana in 1764, and in which that of France was at the time she made the cession. His Majesty, paying due respect to all such treaties and conventions as have caused a change in the state of possession of the two nations in that part of America, religiously confines himself to the express period when Louisiana was circumscribed by the well known extent and boundaries with which it passed into the hands of the United States.

As these boundaries, to the westward of the Mississippi, although

always notorious and acknowledged, have not been marked out with the formality necessary to avoid doubts and arbitrary pretensions, and as it is only evident that they undoubtedly proceed from the Mexican Gulf, by the river Mermento, or Mermentao, and Arroyo Hondo, by drawing a line between Natchitoches and Adoes, which crosses the Red river and extends towards the Missouri. I have done no more than point out a basis for a line of demarcation; and, after we have formally agreed on this basis, a commission composed of Spaniards and Americans, formally appointed and authorized by their respective governments, can, and ought alone, to examine and fix the boundaries between the possessions of the two powers, keeping in view the documents exhibited on both sides, and comparing them on the spot with the points to which they refer. The basis I now speak of as necessary for this demarcation of boundaries must be sought for in the most marked, leading, and notorious points which showed the proper direction and extent of the territories of Spain, France, and England, in 1763 and 1764, since we cannot seek for them in preceding periods, the possessions of the three powers in this part of the American continent being then very different from what they have been after those periods in virtue of public treaties, which are and ought to be inviolable.

The situation, therefore, of the three powers until 1763 was as follows: The crown of Spain extended its dominion to the east, over the right side of the Mississippi, from its mouth to the mouth of the Missouri; and to the north over the right side of the latter river from its mouth to its source. Florida, already contracted by the intrusive establishment of Louisiana, commenced at the river Perdido, and extending eastward towards the river Santa Maria, St. Mary's, included the whole peninsula which extended as far as the twenty-third degree of south latitude. Its northern boundary was not yet fixed. In addition to the colony of Louisiana, such as I have shown it was, and ought then to be, France possessed the territories of Upper and Lower Canada, extending south to a line running from the river Alioamoa, and following the chain of the Alleghanies until it struck above Chaleur bay. England extended her possessions to the south of the said line, on the coast of the Atlantic from the river St. Mary to the river St. Croix, and added to these possessions all the territory lying north of the two Canadas, as far as Hudson's bay and Lake Winnipeg, which had been ceded to her by France at the peace of 1713.

But France, as you know, sir, was, by the treaty of 1763, excluded from the continent of North America, with the exception of Louisiana, then reduced to the island of New Orleans, and to the tract of country to the north of the Missouri and extending to the British possessions. By that treaty she ceded to England both the Canadas and all that part of Louisiana extending over the left side of the Mississippi, from its source to the Bayou Manchac, and thence following the left of the river Iberville, the lakes Maurepas and Pontchartrain, the coast and islands, to the river Perdido. Spain ceded, in like manner, Florida to England, such as I have described it; and in the year 1764, which is the second period when it is necessary to distinguish and fix the basis referred to, she acquired by cession from France her remain-

ing portion of old Louisiana. She afterwards acquired what France had ceded to the English on the left of the Mississippi, and Florida also, which she had ceded to them in 1763, as is proved by the treaty of 1783. This treaty and those of 1763 and 1764, before mentioned, are those which it is necessary to keep in view, together with that of St. Ildefonso, by which Spain ceded back to France what she had received from her, and France accepted the delivery, declaring herself satisfied, and taking possession by virtue of an act of his Catholic Majesty which expresses the retrocession of Louisiana by Spain to France, such as she had received it from France in 1764.

The treaties between France and the United States, and between the latter and Spain (the first in 1778, and the second in 1795,) must likewise be kept in view to illustrate incontestable rights and established unalterable principles. To the treaties just mentioned, your government and his Catholic Majesty may add all such other titles and documents as may be thought necessary to remove or settle any doubt which may arise in the subject-matter, to the end that the basis of a demarcation may be laid down upon a due understanding, and established and fixed with the greatest possible exactness.

You are perfectly aware, sir, that there can be no other just mode of settling the dispute, in relation to the question of boundaries, and that it is the one which has always been adopted by all nations in similar cases; it being the anxious wish of his Catholic Majesty that this demarcation may be so accomplished as to leave no room for doubts or controversy in future, by proceeding to it with good faith and in a manner that may be satisfactory to both parties.

I therefore conclude this note with the same opinion I expressed in my former one, namely, that it is indispensable to examine, ascertain, and agree on the points necessary and essential to the establishment of the true boundaries which separate or ought to separate Louisiana from the Spanish dominions, and that this can only be determined by the mode proposed. If you will be pleased to point out to me any other, which, while it fulfils that object, may be conciliatory and compatible with the rights and honor of the crown of Spain, you may be assured, sir, that I shall adopt it with pleasure, as I shall thereby further the intentions of my sovereign, which are to terminate as speedily as possible the disputes now pending in an amicable manner, so as to leave no spark of disagreement in future.

With these sentiments, I have the honor to offer myself to your disposal, and pray God to preserve you many years.

LUIS DE ONIS.

4.

A passage from *Essai Politique Sur le Royaume de la Nouvelle Espagne*, par Alexander de Humboldt, se consédition, published at Paris 1827, vol. 2, pp. 217-222.

This document or book was never filed in this case, and is not now on file in this office, nor can it be found in this city.

JAMES LOVE, *Clerk*.

NOVEMBER 20, 1856.

Translation of the foregoing.

N. B.—See clerk's explanation on preceding page.

JAMES LOVE, *Clerk*.

5.

Map of the State of Texas, published by J. de Cordova.

6.

Map of the country to the northeast of the city of Matamoras, contained in the translations made by Albert C. Ramsey of a work written in Mexico, entitled "The Other Side, or Notes for the History of the War between Mexico and the United States," published in New York, 1850, opposite page 39.

N. B.—This work has never been filed in this cause, and is not now in the clerk's office, nor in the city of Galveston. The copy that was used in this court as evidence is now at Lamar, in Refugio county, a long distance from this city, and not easily procured by the clerk.

JAMES LOVE, *Clerk*.

NOVEMBER 20, 1856.

Depositions from Victoria of Carceres, Cardenas, and Molano.

The following depositions of Carceres, Cardenas, and Molano were offered in evidence by the complainants at the hearing of this cause, and objected to by the defendants as incompetent evidence. Special objections were made to reading said depositions, respectively—

1. Because they were taken by letter rogatory, which is a mode of taking testimony not authorized by the rules of the supreme court, nor by the law and practice of this court.

2. No sufficient ground has been shown or existed in this cause for resorting to a letter rogatory to take said testimony.

3. No sufficient notice was served on the defendants, respectively, of the interrogatories which accompanied the letter rogatory.

4. No such notice was served on the solicitors of the parties, respectively.

5. No notice was given to the defendants or their solicitors of the application to issue said letter rogatory, or of the tribunal or officer to whom it was issued; and the same was issued *ex parte*, and without notice to the defendants, respectively, or their solicitors.

6. That no sworn or other proper translation of the interrogatories into the Spanish language accompanied the letter rogatory, or was made by the tribunal or officer in Mexico, and that no sworn or other proper translation or rendering of the depositions into the English language was returned from the tribunal or officer in Mexico to this court.

7. That the depositions and letter rogatory are not returned under the seal of any court, nor is it shown that the court or tribunal executing the same had no seal. Nor are the signatures, nor the official character of the officers taking the said depositions, known or proved to this court.

a citizen of Matamoras, attorney in fact of Don Rafael Garcia Cavazos and his wife, Doña Maria Josefa Cavazos, whose power he presents, and requests it may be returned to him, most respectfully represent that the said court has issued the letters rogatory, which the said attorney at law has the honor to present, to the end that justice may be more completely done between the parties named in the said letters. Wherefore, the said attorney at law, on the part of the court which he represents, and Juan Treanor, on behalf of his principals, whose interests are involved in the cause mentioned in the said letters, pray that you will be pleased to order that all that is necessary to be done in the present case to fulfil the wishes of the said court be done.

City of Victoria, November the twelfth, one thousand eight hundred and forty-nine.

WILLIAM G. HALE.
JOHN TREANOR.

City of Victoria, November the twelfth, one thousand eight hundred and forty-nine.

The foregoing having been presented with the power of attorney, letters rogatory, issued by his excellency the President of the United States of America, and the interrogatories accompanying them: Let the said letters be complied with by taking the testimony of witnesses, which the parties who appear in the said suit to which they are attached have solicited, by directing an official communication to his excellency the governor of this State, Don Jesus Cardenas, annexing thereto the respective interrogatories, in order that he may be pleased to answer them as is the custom in this republic, and by omitting the depositions of Doctor Don Ramon F. Valdez, on account of his being absent; that of Don Eleno de Vargas, because the said parties consider it unnecessary, as they have verbally stated; and that of the undersigned notary, on account of its being necessary for him, by virtue of his office, to take cognizance of the aforesaid testimony; and let this letter, when taken, be remitted, under a closed and sealed envelope, to the aforesaid President of the United States by the parties interested. The second constitutional alcalde, Don Jacobo Martiñez, judge in the town of the first instance in the department of the centre, on account of the first alcalde, who occupied that post, having obtained leave of absence, has so ordered and signed before me, the notary.

JACOBO MART'Z.

CIPO. GUERRERO,
Not. Pub.

In the aforesaid city of Victoria, and on the twelfth day of the aforesaid month of November, one thousand eight hundred and forty-nine, Don Juan Nepomuceno Molano, being present in court, the judge administered to him the oath, by God and Lord, and a sign of the cross, upon which he declared he would state the truth as to what he might be asked; therefore, he was informed of the interrogatories which the plaintiffs in the civil suit, as to the lands prosecuted in the district court of the United States of America for the district of Texas, made to him, and—

To the first interrogatory he said: That he is acquainted with Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, complainants, and that he is also acquainted with Charles Stillman, Doña Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Doña Feliciana de Tigerina, and Don José Manuel Prieto, defendants; and that he is not acquainted with the other persons.

To the 2d he declared: That he has never been a notary public.

To the 3d. That he was first constitutional alcalde of Matamoras, in the year one thousand eight hundred and thirty-six, and he was so also during the first six months of the year one thousand eight hundred and thirty-seven.

To the 4th. There being exhibited to him the copy of a title in favor of Don José Salvador de la Garza, which William G. Hale presented, after having examined it he said: That the signature that appears at the end of his name and surname is that which he has used, still uses, and is accustomed to employ, is consequently his own, and that those of his assisting witnesses are also certainly theirs, and are those which Mayorga and Galindo use.

To the 5th. That the said copy of the title is accurately taken from the original, which the interested party presented for this object.

To the 6th. That Don Juan José Tigerina presented the titles, and that this gentleman was the husband of Doña Feliciana Gozeascochea, a relation of Don José Salvador de la Garza.

To the 7th. That as so many years have passed, he does not recollect the condition in which the said titles were then.

To the 8th. That he was first constitutional alcalde of the city of Matamoras in the month of April, of the year one thousand eight hundred and thirty-seven.

To the 9th. There being exhibited to him the paper writing referred to in the interrogatory, and which is presented by William G. Hale, he said that the signature which appears at the end of his name and surname is his, and that he signed it by virtue of the office of alcalde, which he has already said he held in the year one thousand eight hundred and thirty-seven.

To the 10th and last interrogatory he says: That he knows nothing else relating to the suit.

Immediately thereafter, the interrogatories being concluded, his honor the judge cross-examined the witness according to the tenor of the cross-interrogatories presented by the defendants; and

To the 1st cross-interrogatory he said: That he is fifty-nine years of age; that his office is that of first constitutional alcalde of this capital, and judge of the first instance *ad interim* of the department of the centre, in which latter capacity he does not act at the present time, on account of his having obtained a leave of absence from the government, and that he is related in the fourth degree to Doña Trinidad Tigerina de Prieto, and that he is also related and connected in the same degree with Don Juan Tigerina.

To the 2d. That he has been acquainted with the plaintiffs twenty-nine years ago in the town of Reynosa.

To the 3d cross-interrogatory he stated: That he repeats he has

never been a notary public, and in consequence thereof he knows nothing as to the rest of this interrogatory.

To the 4th. That there are very probably in the archives of Matamoros many documents of the dates mentioned, which would prove that deponent was commissioned as first constitutional alcalde.

To the 5th. That he again swears that Galindo and Mayorga wrote their names in his presence, and at the time stated in the document of which mention has been made in the interrogatories.

To the 6th. That he did not himself make the copy of the title which he has recognized; that the person who wrote it was the assisting witness, Don Marcos Galindo, who at that time was a writer in this court; that the said title is exact to the original from which it was taken, which he states, because, before he attested it, he compared and corrected it with the aforesaid original, and that he knows this as well by its contents as by the signatures affixed to it.

To the 7th he said: That the aforesaid original title did not exist in the public archives of his court, and that the aforesaid Don Juan José Tigerina presented it.

To the 8th. That he refers to his reply to the fourth interrogatory.

To the 9th. That he is not aware that the title so often referred to has been annulled or invalidated entirely or in part by any authority of this republic.

To the 10th. That as citizen the law has imposed upon him the duty of giving his testimony; that as a member of the Roman Catholic and Apostolic church, and as a man of honor and credit, he has been bound to give that testimony with truth as he has done, and that he gives the lie to any person who says he has been corrupted or suborned, a thing in which no one would ever succeed, from the religious principles which he professes and reveres.

And, the cross-interrogatories having been concluded, the judge ordered this deposition to be closed; and it having been read to the witness, Don Juan Nepomuceno Molano, he said that it was accurately written, and that he confirmed and ratified all that it contained as the truth. He signed with his honor before me, as I certify.

JACOBO MART'Z.

JUAN NEP'O MOLANO.

CIP'O GUERRERO.

On the thirteenth day of the said month of November, one thousand eight hundred and forty-nine, the judge, assisted by me, the notary, went to the house of the deputy of the chamber of senators of the republic, Licenciado Don José Nunez de Carceres, for the purpose of examining him in conformity to the interrogatories made to him by the plaintiffs, Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, and Doña Estafana Gozeascochea de Cortina, relative to the suit that they are prosecuting against Charles Stillman, Doña Maria de los Angeles Garcia Safen de Tarneva, and others, and having taken the oath in due form of law to express himself with truth—

To the first interrogatory of which he was apprised, he said: That he was certainly acquainted with the laws, practice, and lawful customs which were observed in the State of Tamaulipas; that he has

been a deputy in the congress of the said State ; that he is a lawyer admitted to practice, and that he is in the actual practice of his profession.

To the second, which was addressed to him, he stated: That the laws of the State do not permit, and still less has it ever been the practice in Mexico, that a private person, whether a citizen or a foreigner, should exercise judicial functions ; that only those charged with the administration of justice in a public office can examine witnesses under the sanction of an oath ; that no foreign tribunal can authorize any person to conduct such proceedings within the territory of Mexico, and that not even the consuls recognized by the national government have the power, by the laws of the country, to examine witnesses.

To the third, which was also addressed to him: That he thinks he has completely answered the question proposed to him by his foregoing reply.

To the last: [That he knows positively, and is sure that the congress of the State has recognized by an express declaration the legitimate property in the lands which Don Rafael Garcia Cavazos and his lawful wife, Doña Maria Josefa Cavazos, claimed in accordance with their ancient titles ;] that he knows no more, and that what he has stated is the truth, which he confirms and ratifies ; and he signed with honor this deposition before me, the present notary. I certify.

JACOBO MART'Z,
CIP'O GUERRERO,
JOSÉ NUNEZ DE CARCERES.

On the fourteenth of the said month of November the official communication, which was directed in the order made upon the partition, was sent to his excellency the governor of the State, inserting therein the interrogatories, and with the request that he would be pleased to answer them. I certify.

GUERRERO.

City of Victoria, November the fifteenth, one thousand eight hundred and forty-nine.

Let the reply, which his excellency the governor has given to the interrogatories of the plaintiffs, be annexed, and let all be admitted as was ordered, to the district court of the United States of America for the district of Texas ; the judge in turn of the first instance of the department of the centre, in the State of Tamaulipas, has so ordered and signed before me, the notary. I certify.

JACOBO MART'Z,
CIP'O GUERRERO.

On the aforesaid day, the fifteenth of November, and after the present leaf, is annexed the communication of his excellency the governor, referred to in the foregoing order. I certify.

GUERRERO.

Having read your communication of this date, in which you enclose me a copy of the interrogatories that Don Rafael Garcia Cavazos and other persons have presented to you, in order that some questions

might be addressed to me, the answers to which are to be used as testimony in a controversy that they have with Simon Mussina as to the property of some lands, I now inform you, in reply—

To the first interrogatory. That I am constitutional governor of the State.

To the third. That the laws and policy of the State do not permit any foreign tribunal to appoint an individual, whether citizen or stranger, to interrogate or examine judicially and under oath witnesses in the State.

To the fourth interrogatory. That the laws and policy of the State do not permit a foreign tribunal to appoint an individual to swear witnesses in the State.

To the fifth. That I cannot say anything more with respect to this matter, because I am ignorant of the nature of the questions in controversy.

I say this to you in reply to your aforesaid communication. God and liberty.

City of Victoria, November 14, 1840.

JESUS CARDENAS.

To the judge of the first instance of the department of the centre.

On the Envelope.

REPUBLIC OF MEXICO,
State of Tamaulipas.

Testimony received in the court of the first instance of the department of the said State, in virtue of the letters rogatory issued for that purpose by the district court of the United States of America for the district of Texas, in relation to the civil suit instituted in the said court by Don Rafael Garcia Cavazos and others, against Charles Stillman and others, as to the right of property in lands.

On the outside envelope, including the depositions, documents, &c.:

Republic of Mexico, State of Tamaulipas, court of the first instance of the department of the centre of the said State.

Letters rogatory, which the aforesaid court returns to the chancery of the district court of the United States for the district of Texas.

I certify that the foregoing is a correct translation of the original, made under the order of the court.

WILLIAM G. HALE.

CONSULATE OF THE U. S. A.,
Matamoras, Mexico.

I, Thomas W. Slemons, consul of the United States of America for the post of Matamoras, do hereby certify that Joaquin Arguelles, who attests the annexed document under his own proper signature, to me, the said consul, well known, is now, and was at the time of signing the same, a notary public in and for the city and port of Matamoras, and that to all his acts as such, full faith and credit are given in and out of judicature.

In testimony whereof, I hereunto subscribe my name and affix the seal of my office, this 8th day of March, 1849.

THOMAS W. SLEMONS.

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others	}
<i>vs.</i>	
SIMON MUSSINA.	}
RAFAEL GARCIA CAVAZOS and others	
<i>vs.</i>	}
CHARLES STILLMAN and others.	

In Chancery.

Translation of a copy of the original testimonio of title of Don José Salvador de la Garza to the "Agostadero del Esperitu Santo," and of the accompanying documents.

On the outside cover, attached by the notary, D. Cipriano Guerrero, at Victoria, on taking the deposition of Don Juan Nepomuceno Molano:

Republic of Mexico, State of Tamaulipas, city of Victoria, 1849.

Court of the First Instance of the Department of the Centre.

Documents marked *LM*, which the witness, Don Juan Nepomuceno Molano, examined, and which are mentioned in the depositions he has given in the civil suits, which Don Rafael Garcia Cavazos and others are prosecuting in the District Court of the United States of America for the District of Texas, against D. Simon Mussina, D. Carlos Stillman and others, as to title to lands.

On the outside cover of the copy marked *L*, Titles of the 59 sitios and 11 cabellerias in the Potrero del Esperitu Santo.

To the First Constitutional Alcalde: I, Juan José Tigerina, of this city, appear before you in due form of law and say: That there being various owners of the tract of land to which the annexed title refers, and fearing that it may become difficult to read it, as well on account of its age as by the reason of the use of it by the parties interested, I ask and pray your honor to be pleased to order that two authorized copies in due form may be given to me, which may have the same authority as the original, which I likewise ask may be returned to me after being rubricated by your honor. I ask this as a matter of justice, with the declaration and oath prescribed by law. Matamoras, March 7th, one thousand eight hundred and thirty-seven. JUAN JOSÉ TIGERINA. City of Matamoras, March 8th, one thousand eight hundred and thirty-seven. The petition, with the accompanying documents, having been admitted, let the copies which the party asks be taken, and when this is done, let it be returned to him as he prays. I, the citizen Juan Nepomuceno Molano, First Constitutional Alcalde, thus provide, and have ordered and signed, with my assisting witnesses, with whom I act. I certify. JUAN NEPOMUCENO MOLANO.

Assisting witness, Francisco Mayorga. Assisting witness, Marcos Galindo. On the same date, D. Juan José Tigerina, being present in his proper person, as I certify, I notified and apprised him of the foregoing order, and having understood it he said, that he hears and signs with me and my assisting witnesses. I certify. MOLANO. JUAN JOSÉ TIGERINA. Assisting witness, Francisco Mayorga. Assisting witness, Marcos Galindo.

Mexico and September the twenty-sixth, one thousand seven hundred and eighty-one. Title of sale, adjudication, and grant of fifty-nine sitios of "Ganado Mayor," and eleven caballerias of land, made by the Special Judge of lands of this kingdom, and confirmed by the Royal Audience in favor of Don José Salvador de la Garza, resident citizen of the town of Camargo, within the limits of the Colony of Santander.

Don Francisco Xavier de Gamboa, of the council of his Majesty, his aider in the Royal Audencia of this New Spain, and Special Judge of sales and purchases of lands and waters in the District of the said Royal Audience, &c. Whereas proceedings were had before me, and in this my special tribunal, upon the application of Don José Narciso Cavazos, resident and original settler (Poblador) of our Lady of Guadalupe de Reynosa, on the Gulf of Mexico, who asked to be permitted to purchase a Potrero named Santa Rita, and after the usual order had been given to him, that the proceedings prescribed in it for the object of his claim might be taken; Don José Salvador de la Garza, upon this, opposed the said claim, declaring that the said lands were in the Potrero named Esperitu Santo, which he had denounced in the year (72) seventy-two, before the Lieutenant-General of that colony, who ordered him to apply to this tribunal, and he having done so by means of powers of attorney which he gave, and full means for the prosecution of that business, he failed in obtaining the grant through the negligence of his attorneys. In consideration whereof, and of the proceedings had on the application of said Cabazos, and what has been alleged on either side, by an order of the twenty-sixth of November, of the past year, seventeen hundred and seventy-seven, I declared that the purchase of the place called Santa Rita, claimed by Cabazos, could not be admitted; and I ordered that a commission (dispacho) be delivered to Don José Salvador de la Garza, in conformity to the denunciation which he had heretofore made before the Lieutenant-General of the colony, and respected in this tribunal, in order that the nearest justice (Teniente) might execute the proceedings prescribed in the order. In obedience to which, the commandant of the town of Camargo proceeded to receive the following testimony (informacion.)

In the town of Santa Ana de Camargo, on the aforesaid fifteenth day of the month of June, one thousand and seven hundred and seventy-nine, before me, D. Juan Antonio de Echave, holding the post of chief justice of the said town, (Teniente de Justicia Mayor de dicha Villa,) and commissioned as judge in these proceedings, and before my assisting witnesses, Don José Salvador de la Garza presented as his first witness D. Salvador Vela, a resident citizen of the said town, and I administered to him in his proper person, which I certify I know,

the oath which he took in full form, by God our Lord, and the sign of the Holy Cross, under which he declared that he would speak the truth as to what he might know and should be asked, and being interrogated, as I have directed, he says that the Potrero which he knows as that of the Esperitu Santo has as its boundaries and natural outlines, (*terminos y linderos*;) the Arroyo Colorado, the Lagunes (*Lagunas*) of the sea, the Rio Grande, and on the side of the entrance, a thick wood; that the first that settled the said Potrero was Don José Salvador de la Garza, who has had and still has possession of it, with various others, who some time afterwards he established there under his protection and control, (*los puso á su arrimo*;) it being about eight years since he settled it; that he knows that these lands are vacant, and a part of the public domain, (*valdías y realengas*;) because he has known no owner of them; that this is the truth upon the oath which he has taken, and this he confirmed and ratified; he said that he was seventy-five years of age, and that the general prohibitions of the law did not apply to him; and as he did not know how to write, I, the aforesaid judge, did so for him, before me and my assisting witnesses, with whom I act as an examining judge, (*Juez receptor*;) all of which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Lorenzo Trevino. Assisting witness, Thomas Flores.

And immediately thereafter, before me, the aforesaid judge, and my assisting witnesses in the present investigation, D. José Salvador de la Garza offered as his second witness Juan Damacio Perez, a Spaniard, and resident citizen of the said town, and I administered to him in his proper person, which I certify I know, the oath which he took by God our Lord, and the sign of the Holy Cross, upon the faith whereof he declared that he would state the truth in all that he might know and should be asked; and being interrogated as is ordered, he said, the party being present to see him take the oath, as in the preceding examination: that the Potrero, which they call that of the Esperito Santo, has upon one side, and to form its figure, (*por in lado tiene y forma*;) the Rio Grande, Lagunas of the sea, Arroyo Colorado, and a thick wood (*breñal espeso*) or thicket on the side of the entrance of the said Potrero, in the centre of which it has some ponds when it rains, which slowly dry up; that the first who entered, by breaking through the thicket, was D. José Salvador de la Garza, who possessed it and still possesses it, with another, whom he put there under his protection (*a su arrimo metió*) long after; that it must be something like eight or nine years since the said Don José Salvador settled it; that he knows the said lands to be vacant, uncultivated lands, belonging to the public domain of the king, and that he has positively not known, or heard of any other person as having settled (*poblado*) the said lands; that is the truth upon the oath that he has taken; and confirming and ratifying it, he said that he was fifty years of age, and that the general prohibitions of the law do not apply to him, and as he also does not know how to write, I, the said judge have done so, before me and my assisting witnesses, acting by way of an examining board (*per receptoria*) as before stated, which I certify. JUAN ANTONIO DE ECHAVE; assisting witness, José Lorenzo Trevino; assisting witness, Thomas Flores.

In the town of our lady, Santa Anna de Camargo, on the sixteenth day of the said month and year, before me, the above mentioned judge and assisting witnesses, Don José Salvador de la Garza presented as his third witness D. Juan Bautista Garcia, a resident citizen of the said town, and I administered to him in his proper person, which I certify I know, the party being present, the oath which he took according to law, by God our Lord, and the sign of the Holy Cross, upon which he declared he would state the truth as to what he might know and should be asked ; and being interrogated as is required, he said : That he has known the Potrero, which they now call that of the Esperito Santo, about twenty-six years, in expeditions undertaken against the savages, as one of the first settlers of this town ; and that he has always known it as uncultivated, vacant land, belonging to the public domain of the crown, and that the Arroyo, now known as the Colorado, forms it upon one side, the Lagunes immediately communicating with the sea upon another, and on the third and southern side the Rio Grande, closing on the west with a thicket ; that he knows as public and notorious that D. José Salvador de la Garza opened and broke through this thicket, making an entrance in it, when he stocked } the said land, which must be eight or nine years ago, with-
settled } out any other person having done so before, and that he knows and is sure that he has maintained under his care and protection other persons whom he had placed on it, after he had entered and stocked }
settled } the said land, on which he has seen some fences, and bars, (trancas,) which were to close the entrance, all made by the said D. José Salvador de la Garza, who has enjoyed and kept on it his stock up to the present time, and that there are no permanent watering places besides the Rio Grande ; that this is the truth upon the oath that he has taken, which he confirmed and ratified, and said that he was seventy years of age, and that the general prohibitions of the law did not apply to him, and that he does not know how to sign. I have signed, with my assisting witnesses with whom I act, as has been said, which I certify. JUAN ANTONIO DE ECHAVE ; assisting witness, José Lorenzo Trevino ; assisting witness, Thomas Flores.

In the aforementioned town, and on the aforementioned day, month, and year, before me in this tribunal, and before the assisting witnesses, the party presented as his fourth witness, for the present examination, D. Lorenzo Leona, a resident citizen of this town, and I administered to him in his proper person, which I certify I know, the oath, which he took in due form of law, by God our Lord, and the sign of the Holy Cross, upon which he declared that he would speak the truth as to all which he might know and should be asked, and after the party who were present to see him take the oath had retired, he said that he is one of the first settlers of this town, and has known it for the period of thirty years, but on account of his having been a soldier, and for this reason having been assigned to various detachments from this province, he was never at those times with his companions at the Potrero, which is now called that of the Esperito Santo, but had, on several occasions, gone there himself, and knew it in con-

sequence of having gone round the outside, where only Pagan Indians were living, until D. José Salvador de la Garza, in the year seventy-one, invited him to accompany him and examine the said Potrero, to see whether it offered any advantage for the protection of the stock (bienes) of the said Don Salvador; and accompanying him, they went together to examine it, and arriving at a thicket which was there, through which alone they perceived they could make their entrance easy, they did so by means of hatchets and knives, notwithstanding the danger with which they were threatened from the Indians, and having entered, they saw the latter retiring, upon which they determined to go through the whole of the Potrero, in which they spent six days. That immediately after the said D. José Salvador put in it his stock, (bienes de campo,) improving it (poblandole) with buildings, (hacales,) that he made fences and cattle-pens, (corrales,) and that the place of his entrance may be recognized by the bars (trancas) in it, by which he knows, by actual observation, that the said Potrero was not settled before by any other person; and that the said thicket, Arroyo Colorado, Lagunas of the sea, and Rio Grande form it; that it is an uncultivated tract of land, full in all parts of small streams and ponds, which the freshets and rise of the Rio Grande, Arroyo Colorado, and Lagunas of the sea, which inundate the said Potrero have made, the men and animals then preserving themselves upon some elevations that it has, all which he has seen in passing over it afterwards on repeated occasions; that he knows that D. José Salvador de la Garza, aforesaid, has conciliated and obtained the good will of those Indians, by giving them beeves to eat and clothing to wear, and conducting himself with them with such courtesy (urbanidad) that he has brought some of them, both men and women, into the bosom of our holy religion, and caused them to be married by our holy mother church, so that he is well known to keep some of them in his own house; and that he also knows that within the four years that the said Potrero has been settled, he has placed in it, under his protection, some residents of this town, as well as of that of Reynosa, and various others from beyond the frontier, which are now living in their respective settlements, by which he knows, and it is true that the said Potrero and its lands are vacant, and belong to the public domain of the crown, all which he declares by the questions which were put to him, and has confirmed and ratified it to be true, upon the oath which he has taken. He said he was sixty years of age, a little more or less, and did not know how to sign, and that the general prohibitions of the law did not apply to him. I, the said justice (teniente) and commissioned judge (juez comisionado,) have signed before me, and my assisting witnesses, with whom I act, as has been said; all of which I certify. JUAN ANTONIO DE ECHAVE; assisting witness, José Antonio Treviño; assisting witness, Thomas Flores.

In the said town, on the same day, month and year, before me, the aforesaid judge, commissioned for these proceedings, and my assisting witnesses, D. José Salvador de la Garza presented in this tribunal as the fifth and last witness in this investigation, D. José Xavier Salinas, a resident citizen of this town, and I administered

to him in his proper person, which I certify I know, the party being present, the oath, which he took according to law, by God our Lord, and the sign of the Holy Cross, upon which he declared he would state the truth as to all he might know and should be asked; and being interrogated as is ordered, he said: That he is one of the first who settled and built this town; in doing which he passed, on many occasions, along the outside of the said Potrero, which is now called that of the Espiritu Santo; and that, although he was upon some of these occasions accompanied by others, he never determined, on account of the danger from the Indians, to enter and examine the said land, but that it was known that a creek (arroyo) known as the Colorado, lagunes opposite the sea, the Rio Grande, and a dense thicket made and formed the said Potrero, in which only pagan Indians dwelt, and that it remained without being settled by any other person until the year seventy-two. Don José Salvador de la Garza entered to settle it with his stock, and by building dwelling-houses, cattle-pens, and fences that he made, where he has remained without ever having been dispossessed of it, and still remains up to the present time; that he knows that something like four years afterwards he established, (agregó,) as well in the said Potrero as in its immediate neighborhood, several other residents of the towns of Reynosa and Camargo; that it is a country as is publicly known as to the most or the whole of the Potrero, which is covered by water by the freshets, which often happen in the said Rio Grande, Arroyo Colorado, and Lagunes, as is confirmed by its being notorious that the said D. José Salvador de la Garza was once surrounded by water (islada) and was not able to escape for some days, and this danger threatens him in such freshets with destruction to himself, and also the loss of his property (bienes;) that he has always known and considers the said Potrero as vacant and belonging to the public domain of the crown; that this is the truth upon the oath that he has taken, which he confirmed and ratified. He said that he was seventy-four years of age, and that the general prohibitions of the law did not apply to him, and that he has signed before me and assisting witnesses, acting as an examining court (por receptoria) as above mentioned; all of which I certify. JUAN ANTONIO DE ECHAVE, FRANCISCO XAVIER SALINAS; assisting witness, José Antonio Trevino; assisting witness, Thomas Flores. And this examination, which was taken officially, being completed, they proceeded to the actual inspection (vista de ojos) in the following form;

In the said estate (estancia) of the Esperitu Santo, on this the twenty-sixth day of the said month and year, I, the said judge, accompanied by my witnesses and all those above named, who appeared in consequence of the citation made to them, taking as a guide D. Lorenzo Leona, on account of the complete acquaintance that he has and enjoys (que tiene y le asiste) with the said Potrero in respect to the recesses, bends and elbows (rinconadas bolsas y recodos) that, as we are informed, the Rio Grande del Norte, the Lagunas of the sea, and the Arroyo Colorado which form it, make; the expert ass. surveyor going likewise with us, went into the field to begin, as I did begin, the actual inspection (vista de ojos) of the aforesaid land, and

the places which surround it, water holes, and the nature of the ground (terreno,) and for proof thereof I have made this official statement (lo pase por diligencia,) which I have signed before myself and my assisting witnesses, with whom I act, as examining judge (juez receptor;) all of which I certify. JUAN ANTONIO ECHAVE; assisting witness, José Rafael Lopez; assisting witness, José Bento Lopez.

In the aforesaid estate, on the thirtieth day of the said month and year, I, the aforesaid judge, having terminated the actual inspection of these lands of Esperitu Santo, which was done in company with the appointed surveyor, D. Manuel de Sierralta, and other persons already mentioned; I have noticed the courses of its lines, the entré, and the nature of the ground, which is uncultivated (criaso) on account of the many breaks and (derrames) which it contains, as well as the many expanded and large ponds which surround, and prove that the most or the whole of the Potrero is inundated by them in the rises of the said Rio Grande and Arroyo Colorado, especially since from the last issue the said ponds and lakes, the latter being fed equally by the high tides of the sea, so that when they unite the danger before spoken of is apparent (I mean) that of being drowned, with no chance of escape except upon small eminences that the said Potrero has, or by the people going in boats to dry land (tierra firme) at a great distance, as the water extends on these occasions as much upon one side as the other from the river and from the arroyo. So that the most of the said ground of this Potrero is only planted [covered] with a kind of grass sacayinte, not at all fit to be eaten by any animal, as is known by experience, it being an herb that usually grows upon salt marshes near the coasts of the sea, and the said Potrero contain no permanent watering place, except the Rio Grande, and, when it rains, some pools, which dry up in a short time, this also happening with the said ponds (esteros,) and then the waters of the Arroyo Colorado, on account of their brackish or bitter nature, are like those of the sea, on which account it is only useful as regards horses and all other stock by the security and protection which is afforded on account of the said Potrero not having but one entrance and exit through the dense thicket which runs across it from the Arroyo Colorado to the Rio Grande; all of which I set down in this official statement (penga por diligencia,) signing it before me and the rest of those cited and present, who have learned the same facts, and the surveyor, acting as an examining court, as has been said; all of which I certify. JUAN ANTONIO DE ECHAVE, Manuel de Sierralta, Juan José de la Garza Falcón, Bartolomé Trevino, Pedro Villareal, José Antonio de la Garza Falcón, José Salvador de la Garza; assisting witness, José Benito Lopez; assisting witness, José Rafael Lopez.

In the watering place above mentioned of the Rio Grande del Norte, being in it on the second day of the said month and year, I, the aforesaid judge, accompanied by my assisting witnesses, adjoining proprietors and neighbors (colindantes y circumbecinos,) as well within as without the said Potrero, which are the same, as there are no others than those already named for the actual inspection, I ordered D. Manuel Sierralta, the surveyor already nominated and sworn in due form for this survey, to begin to exercise his office, and he, before me,

the witnesses, and the other persons present, as aforesaid, took a staff of the usual length, and attaching to it one of the ends of the measuring cord (cordel) prepared for this purpose, measured away from the said staff, and gave the cord fifty varas in length, the vara being that used for measuring cloth in Castile, and the one customary in this province of New Santander; and having measured off the said fifty varas, he attached the said cord at the place where they ended to another staff of the same size, so that between both there were only measured the said fifty varas; and setting a compass, he ran off the first line from the aforesaid watering place, course east, going in a straight line along the meanders of the said Rio Grande down the stream, arriving with five hundred and eighty-four "cordeladas" (measures of fifty varas each) at the aforesaid river, at a (derrame) from it, by which, in its freshets, it fills with water a tank (tanque) which was left above (que quedó por la parte de arriba) at a distance of six cordeles, which was left as a natural landmark, (por lindero,) in which place I ordered the denunciante, Don José Salvador de la Garza, to establish a more exact fixed mark (mas stual figa) as a corner (mojonera,) there remaining on this line towards the south, some recesses and elbows (bolsas y recedos,) which the bends of the above mentioned Rio Grande formed; that the surveyor said he would notice after completing the other lines, in order to include in the entire amount of the square leagues (sitios) those which might be in the said bends and elbows; and this line being concluded up to the said plan of the , I have set it down in this official statement, which, as well the said surveyor and interested party as the rest of the adjoining proprietors and neighbors, who were knowing to this fact, have signed before me and the assisting witnesses, acting as an examining tribunal, as has been said; all of which I certify. JUAN ANTONIO DE ECHAVE, Manuel de Sierralta, Juan José de la Garza Falcón, José Salvador de la Garza, José Antonio de la Garza Falcón, Bartolomé Treviño; assisting witness, José Benito Lopez; assisting witness, José Rafael Lopez.

In the said place of the of the river, which ended the first line, on the third day of the said month and year, before me, witnesses, and the other persons, the said surveyor measured the surveying cord, making it, as he had made it, fifty varas in length, by the aforementioned vara for measuring cloth in Castile, as upon the foregoing day; and setting the compass, he ran this second line, straight to the north, and at two hundred and six cordeles we came to the head of one of the lagunes of the sea, besides others that were seen to the east, and having gone round the head of the first one, and various others that succeeded, communicating with each other, following always the north course, the surveying cord came into a bend or little pocket which the said lagunas make, these being on the west and east until they reach the "Lagunas Madres," which are formed by the Arroyo Colorado, and in which its waters empty and flow, there being far within this line, something more than a league, a place improved (poblado) with houses (hacales) and cattle-pens, named San Juan del Retiro, where are living some herdsmen, (vaqueros,) servants of the aforesaid D. José Salvador de la Garza;

and there being no more land, on account of our having reached the said Lagunas Madres, and having nothing before us but water, this second line amounted to nine hundred and ninety-three cordelas in the whole, the cord having been measured over again several times in the distance ran, as was also done on the first day; all of which I set down in this official statement, which the surveyor, and the interested party, and the others who accompanied us, and were knowing to the facts, have signed before me and the witness with whom I act, as has been stated; all of which I certify: Juan Antonio Echave, Manuel de Sierralta, Juan José de la Garza Falcon, José Salvador de la Garza, Pedro Villareal, José Antonio de la Garza Falcon, Bartolomé Trevino; assisting witness, Benito Lopez; assisting witness, José Rafael Lopez.

In the place on the banks of the Arroyo Colorado, where it begins to expand its broad lagunes, (Lagunas Madres,) at which place we arrived by going round and even wading through the waters of the lagunes that we had to the west on the second line, when we entered by it the bend and little pocket before mentioned, which thus remained as a natural landmark, together with an artificial one (señal) which was placed there, while, at the same time, another was placed where this third line began, by measuring from one to the other within the Potrero del Esperitu Santo, at a distance from the lagunes, which circumstances induced us to execute the survey in this way, on account of finding no firm ground or foothold there, (ningun paso;) in which place, before me, witnesses, the denunciante, and others already mentioned, the surveyor again measured his cord, which he made fifty varas from staff to staff, by the same vara as aforesaid, and, setting his compass, began the third line, along the margin (meanders) of the said creek, (arroyo,) up the stream, course west, and at three hundred and nine cordeles the aforesaid surveyor noticed that the said creek turned south, as though crossing the Potrero del Esperitu Santo, on which account, following the said course to the south, as well as the said creek permitted, keeping always near its banks, at a distance of a hundred cordeles, it was found impossible to follow any line further, on account of the country being inundated by a large lake and little streams, tributaries of (running into) the Colorado, into which they emptied their waters, as also by a dense and impassable thicket, which joined the said Colorado and lake, which entirely prevented the running of this line; but those experienced and well acquainted with the bends which the said arroyo made, declared that, at some distance beyond the place where we were compelled to stop, the aforesaid arroyo turned again to the west; as to which line, the surveyor agreed with the experts and the interested party, that it ought to have and did have the same number of varas in length as the front line on the Rio Grande—that is, five hundred and eighty-four cordeles; on account of the second line running along the lagunes [or the second line of the lagunes] (la segunda linea de las lagunas) from the south to the north, and by our actual inspection (vista de ojos) these corresponded to it, for the fourth line one from the north to the south, as, indeed, the fence seen upon this line shows; and, on account of this calculation, the interested party was ordered

to establish an artificial landmark, which might serve as a corner, (señal que serviera que Mojonera,) and this official statement all the proper persons and those who were knowing to the facts have signed before me, and the witnesses with whom I act, as an examining tribunal, as has been said ; all of which I certify: Juan Antonio de Echave, Manuel Sierralta, José Salvador de la Garza, Juan José de la Garza Falcon, Bartolomé de Trevino ; assisting witness, José Rafael Lopez ; assisting witness, José Benito Lopez.

In the aforementioned place of the thicket, and the lake which prevented the running of the third line aforementioned, as has been said, which line was concluded or (come to an end) (se concluijo) on the seventh day of the said month and year ; the fourth line followed on the eighth day succeeding, in the present and aforesaid month, and as to this last line, it was likewise impossible to follow it up with the surveying cord, on account of the impenetrable nature of the thicket, the lakes and dranes, (resacas,) which, interwoven with the said thicket, made it difficult, by the necessity of deviations from the straight course (por in dando vuelta) in most of the said *lines* ; but it was agreed by the experts and the intelligent men who accompanied us, that the said insurmountable difficulty (dicha imposibilidad) continued along the said line for a distance of five leagues, and in this the interested party agreed, till coming, as we in fact came out at the fence, which he had set upon this front in the clear ground, (en el roso,) at which place the surveyor aforesaid measured his cord, and making it the fifty varas, set his compass, and observed that the said fence ran from north to south ; and pursuing this course we came out at two hundred and ninety-five cordeles to the watering place, where this survey commenced on the Rio Grande del Norte, where it closed ; and uniting (adding) the two hundred and twenty-five cordeles with the five leagues through the thicket and water, they make up the quantity of six hundred (seven hundred) and twenty-five cordeles ; and the said surveyor having already made a calculation for this purpose of the bends and elbows which the said Rio Grande forms, belonging to the first line, he declared that in these last and under the four said lines were contained fifty-nine square leagues, (sitios de ganada mayor,) eleven and one-half cabellerias of land in favor of his Majesty, according to his acquaintance (skill) with (in) this art of surveying, ratifying this by the oath which he has taken, all of which I set down in this official statement before me and my assisting witnesses, the persons already mentioned being present, who signed on their respective accounts, and as to those who could not write, I, the said chief justice of the town of Camargo, and judge commissioned for this business, have done so for them, acting as an examining tribunal as has been said. I certify. Juan Antonio de Echave, Manuel de Sierralta, Salvador de la Garza, Juan José de la Garza Falcon, Bartolomé Treviño, José Antonio de la Garza Falcon ; assisting witness, José Rafael Lopez ; assisting witness, José Benito Lopez.

And notwithstanding that two of the adjacent proprietors made opposition, inasmuch as they did not present their objections in form, nor exhibit their titles, the justice acting as commissioner proceeded

to give the public notices required by law, and a day having been appointed for the sale, (remate,) it was made in the following form:

In this said town of Santa Anna de Camargo, on the twenty-second day of the said month and year, and the last day of public notice for the sale, I, the said commissioned judge, ordered the drum to be beaten in the same place, after high mass, and by the voice of the public crier I gave public notice of the sale before the commandant, (el sur capitan,) the reverend father, the priest of this town, the various neighbors, and D. José Salvador de la Garza, and seeing that the hour had now arrived in which it is, and has been usual and proper (regular) to make the said sale, I order the last call to be given, and there was no one who would bid (puzara) more than the twenty dollars which D. José Salvador de la Garza has bid, and the said estate (agostadero) was adjudged to him after twelve calls, (en doce preyores,) which I made or repeated on this the same day of sale, and so that he, D. José Salvador de la Garza, might have it for his good profit, (buena pro,) and he signed with me and my assisting witnesses, with whom I act, as an investigating tribunal, which I certify: Juan Antonio de Echave, José Salvador de la Garza; assisting witness, José Benito Lopez; assisting witness, José Rafael Lopez.

In the aforesaid town, on the said day, month, and year, before me, the said justice, (teniente,) seeing that the thirty days for the daily notice of the sale which I was ordered to give, by this order of the government, (este superior despacho,) were entirely completed, as well as the day which I had fixed for its sale, the said D. José Salvador de la Garza, on his part, was content, and he having expressed his compliance and excepted the said Potrero, before the commandant capitan Don José de la Garza Falcon, the reverend priest of this town, Brother Francisco Villuendos, the regidor having the first vote, D. Miguel Chapa the procurador, D. Augustin de la Garza, and other citizens who were present; and in order that this may appear in all time to come, I make this official statement, which the said D. José Salvador de la Garza has signed with me and my assisting witnesses, acting as an examining tribunal, all of which I certify. JUAN ANTONIO ECHAVE, JOSE SALVADOR DE LA GARZA; assisting witness, José Benito Lopez; assisting witness, José Rafael Lopez.

I, Balthazar de Vidaurri, for Don José Salvador de la Garza, a resident citizen of the town of Camargo, in the colony of New Santander, in the proceedings as to the denunciation of lands, to which he has given the name of Espiritu Santo, according to the record (escrito) of sixty-seven leaves, part the second, so far as the law allows me, state: That an order having been issued to take the steps prescribed in the royal decree (acordado) for the grant and sale of these lands, all these steps were taken by the justice of the said town of Camargo, as the paper book (cuaderno) in which he gives an account of his proceedings, shows, without meeting any other opposition than that of Don Bartolomé Fernandez, an adjacent proprietor on the side of the entrance of the Potrero, with respect to the fourth and last line, on the ground of its having happened that one of his estates, (tierras,) which ran into the Potrero on the east to a dry well, was crossed and intersected by this line; that he was asked for his titles, and did not

exhibit them; but a period of three months was assigned to him, counting from the first of September of the year last past, to appear to sustain his opposition to this special tribunal, and he not having done so, I charge him formally with contumacy (*rebeldia*) on the fifty-second leaf. With respect to the sale of the *sitios* and *cabellerias*, I ought to represent to your honor that they are valued at two dollars per *sitio*, and one real per *cabelleria*; but as my principal has suffered so much opposition, as the proceedings prove, and his opponents knew the necessity he was under to have the lands, on account of his property [stock] (*bienes*) before mentioned, to which he was greatly attached, having been established in there, it was a motive of malignity, and to do him injury, as the justice (*teniente*) states, that they bid up the *sitios* to twenty dollars. This is an extraordinary disproportion, since what they made him pay is, with reference to the price of the valuation, nine times more than the proper price, and it is not permitted, even in public auctions, to sell with such extremes, (*en estos terminos*,) for in these auctions bidders cannot go beyond the highest price, (*i e.*, fixed as the just valuation,) and this is much more true when the affair is effected with bad faith, and a disposition to do an injury to him who buys from necessity, as was the case in the present instance. Wherefore, I pray your honor, that whilst you are pleased to approve the proceedings had, and the sale made to my principal, you will be pleased also to reduce the price to what will be just, and this your prudent judgment will determine; and, in case this cannot be done, (which he hopes will not be the case,) my principal will have to pay the full amount of the twenty dollars for the *sitios*, and of the real for the *cabellerios*, which are eleven and a half and fifty-nine *sitios*, in order that the necessary instrument to serve him as a title, and by virtue of which he can enter into the possession of the lands, if he should desire it, may be in good time delivered to him. And, as to all this submitting it to the examination of the attorney of the treasury, (*Abogado Fiscal*,) I pray your honor to be pleased to order as I here ask, and I take the formal oath as to all necessary averments, &c. DOCTOR MANUEL DE GARISNAIN; Aranguti, Baltazar de Vidaurri.

Mexico, the seventeenth of July, one thousand seven hundred and eighty. To the attorney of the treasury, (or of the government,) the oidor and special judge has so ordered as above prayed, and signed with his rubric—marked with a rubric. Before me, JOSE DE MONTALVAN, Royal and Provincial Notary.

The attorney of the treasury, upon examination of these proceedings on the denunciation made by D. José Salvador de la Garza, of the Potrero called that of the *Esperitu Santo*, in the colony of New Santander, says that, by virtue of the second order issued for the proceedings under the royal decree, (*acordado*,) the statements of the party, and those taken officially, were received in the fifth paper book, by which the land was shown (*resulto*) to belong to the public domain of the crown, (*realenga*,) and the denunciation having been publicly announced (*publicada*) on the thirty-first leaf, the actual inspection (*vista de ojos*) and survey followed, in which it was found (*reconocio*) that the Potrero contained fifty-nine *sitios* de “*Ganado Mayor*,” which

were rated at two dollars, besides eleven and a half caballerios, estimated at a real, at which prices the denunciante made a bid; and public notices having been given, another third party appeared, who made various bids, until, in running up to twenty dollars for each sitio, the sale was made to the denunciante himself, without any important defect appearing in the said proceedings, since it was of no moment that the denunciation had been published after the testimony was taken; and though this did not precede the citation of the neighbors, (*circumvecinos*), on account of the distance of their residences, they were received for the actual inspection (*vista de ojos*) and survey, in which they were present, according to the thirty-third leaf on the reverse, and the following: The matter most worthy of note which appears, [in the proceedings,] is the opposition that Don Bartolomé Fernandez made on the fortieth leaf, saying that, by the line which had been run from the north to the south, some land of his was taken, since his tract ought to extend to a dry well, which had been adopted as the boundaries in the surveys made in favor of Don Narciso Cavazos; but on notifying him, on the reverse of the leaf, to exhibit his titles, he answered that they were in this tribunal; on which account he was given, according to leaf fifty-two, a period of three months, counting from the first of September of the year last past to appear in this tribunal to support his opposition, which he has not done in more than ten, reckoning from that time. To this it may be added that the proceedings and surveys, which were made upon the application of Don Narciso Cavazos, are those that begin the first paper book (*cuaderno*) of the acts, (*autos*), in which it appears on the thirtieth leaf that they ran below the watering place (*abrevadero*) of D. Engleno and D. Bartolomé Fernandez, and these [surveys] were disapproved by your honor, on the reverse of the fifty-first leaf, on account of its having appeared that the denunciante, D. José Salvador de la Garza, had settled (*Poblador*) the Potrero, from the year seventeen hundred and seventy-one, and had denounced it in that of seventy-two before the lieutenant-general of the colony, and that various other persons had joined him with his protection, or under his consent, and placed there their stock, among whom was the aforesaid Cabazos, and that the latter, notwithstanding this, denounced almost all the Potrero, giving it the name of Santa Rita; and, after the proceedings required by the royal decree (*acordado*) had been had, an application was made by the denunciante, and they were declared of no avail, and ordered to be made again in favor of Don José Salvador de la Garza, who was the first to settle and denounce; hence it follows that the surveys made upon the application of Cabazos were of no benefit to him or Fernandez, who has established no other title, and the more readily, as it may be inferred, that he also entered under the protection of the denunciante, or of some one of those to whom he had granted permission to introduce their stock. It ought also to be observed that the valuation of the sitios was two dollars for each one, and that on account of the bids they were knocked off to the denunciante [at the rate of] for twenty dollars; on account of which he asks the price to be reduced to what the prudent judgment of your honor may think right; although in case this is not done, he states that he will have to pay the full amount,

compelled thereto by necessity ; and on this point it is to be noticed that, on the fifty-fifth leaf of the fifth paper book, the commissioner (comisario) states that the citizens of the town of Reynosa, to injure the denunciante, ran up the price to twenty dollars. It also appears by the first paper book, on the reverse of the fifty-eighth leaf, and the following, that the said citizens, influenced from that time forth by the said D. Narciso Cavazos, filed their opposition (oposicion) on the twenty-fourth leaf, to the grant of these lands to Garza, and colluding together, as the justice (teniente) of the said town gives us to understand, threw obstacles in his way, by preventing the performance of the proceedings required by the royal decree, until a second order was issued, committing them to the justice of Camargo. It likewise appears on the reverse of the thirty-fourth leaf of the first paper book, that when the first proceedings were had on the application of Cavazos, each sitio de ganado mayor was valued at twelve reals, to which the attorney of the treasury (abogado fiscal) ought to add, with the good faith which belongs to his office, that in the internal provinces (provincias internas) and in distant places, sitios de ganado mayor are generally valued at these prices of twelve reals, or two dollars, or of three or four dollars, and on some occasions at one dollar ; and in the proceedings under his custody as to the estate of Currisitos, in the same jurisdiction, they are rated at two dollars, and in others upon which he is engaged, as to lands surveyed between the towns of Reynosa and San Fernando, denounced by D. Antonio de Urizan, the valuation was made at four dollars, by which the attorney of the treasury does not oppose your honor's exercising the functions belonging to your office, and reducing the price to the amount which you may think right. Upon consideration of the whole matter, your honor will be pleased to approve the proceedings had, adjudging or granting by way of sale to the denunciante, Don José Salvador de la Garza, the fifty-nine "sitios de ganado mayor," and eleven and a half caballerias of the Potrero del Espiritu Santo, under the natural outlines (linderos) which the surveys state, (que expresan los medidas,) and ordering that, when the amount which the sale brought, or that to which your judgment may reduce it, is fully paid, and the duty of "medianata" satisfied, a report may be made, with these proceedings annexed, to the royal audience, for the confirmation, if such should be their supreme pleasure, and that after their return (*i. e.*, the proceedings) the corresponding title be issued. Mexico, and July twenty-second, one thousand seven hundred and eighty. Licenciante MARTIN DE ARAMVUM.

Mexico, the twenty-ninth of July, one thousand seven hundred and eighty : Together with what is asked by the attorney of the treasury, I approve the proceedings had, and I adjudge and grant by way of sale (*hajo adjudicacion y merced por via de venta*) to D. José Salvador de la Garza, fifty-nine sitios de ganado mayor (square leagues) and eleven cabellerias of land, under the natural boundaries which the surveys state, (que expresan las medidas,) and in consideration of the circumstances of the affair, and the ill designed vexation of the bids that were made, it being apparent that this was done with the intention to injure the denunciante, by reason of the permanent establishment (*vadicacion*) of this property (*bienes*) in the Potrero del Esperitu

Santo, and it appearing, as it does appear in this tribunal by different documents (expedientes) which are here preserved, that the sitios de ganado mayor in those places are valued and sold, the highest, at four dollars, I think it proper to reduce the price from the twenty dollars to that of eight dollars, to which sum it amounts by quadrupling the value of these sitios ; and upon the full payment into the royal treasury (chest) (caja) of this court of the four hundred and seventy-two dollars to which this amounts, together with the eleven reals for the eleven cabellerias, and their media annatos these proceedings (autos) shall pass to the royal audiencia for the confirmation of this grant, and when they are returned notice of it shall be given for the issuance of the title, or whatever may be fitting. Don FRANCISCO XAVIER DE GAMBOA, of the council of his Majesty, his oidor in the royal audiencia of this New Spain, and special judge of sales and purchases of vacant and public lands (realengas) and waters, has thus ordered and signed. GAMBOA. Before me, JOSE DE MONTALVAN (Escribano Real y de Provencia) royal and provincial notary.

To the royal officers of the royal treasury and chest (Hacienda y Caja) of this court: Be pleased to order the receipt of four hundred and seventy-three dollars, three reals, at which D. Francisco Xavier de Gamboa, as special judge of vacant and public (realengas) lands and waters, has made adjudication and grant, by way of sale, to D. José Salvador de la Garza, of fifty nine sitios de ganado mayor and eleven cabellerias of land, within the limits of the colony of New Santander, jurisdiction of the new kingdom of Leon. And this amount shall be placed to a separate account, in consideration of what is usual for its remittance to Spain in the customary form, returning this order endorsed that it may appear in the proceedings on this subject. Mexico, the twenty-ninth of July, one thousand seven hundred and eighty. JOSE DE MONTALVAN, royal and provincial notary. Entered on the two hundred and forty-second leaf (fogas) of the book of orders (villetes), on the third of August, one thousand seven hundred and eighty. GUERRERO.

On the third of August, one thousand seven hundred and eighty, the four hundred and seventy-three dollars three reals (tominas), which this order mentions, were paid into this royal chest (caja). Mexico. CARILLA.

On the third of August, one thousand seven hundred and eighty, D. José Salvador de la Garza, to whom the special judge of lands has adjudged and granted, by way of sale, fifty-nine sitios de ganado mayor and eleven cabellerias, within the limits of the colony of New Santander, paid in reals of this court, eleven dollars, six reals, and eight grains, which the royal duty of Media annata imposed, computed at the half of what at five per centum the amount of four hundred and seventy-three dollars three reals brings, which latter sum he has paid (servido) as appears by the order, which, with the endorsements of the royal officers, remains in this general office of accounts of the said royal duty under my charge. In testimony whereof, and that it may appear wherever proper, I give the present certificate in Mexico, on the said day, month, and year. SUSURO DE ARROCETE Y GARZA.

Very Powerful Lord : The only thing which can be found to prevent

(cono embaraso) the grant and the sale of the lands of the Potrero del Esperitu Santo, deserving the supreme confirmation and approbation of your highness, is, that D. Bartolomé Fernandez has not yet been heard as to the opposition he made in respect to a certain place in them, and likewise that the sale (remate) and adjudication has not been made for the price of twenty dollars, which the bidder, D. José Salvador de la Garza, offered for each sitio, being reduced by your special judge to that of eight dollars, which seemed to him to be their just and true worth; and as to the first point: it must be supposed that the said D. Bartholomé Fernandez, although required, has not exhibited or shown the titles by virtue whereof he made his opposition, which circumstance persuades us that this opposition was entirely based upon the proceedings and surveys had upon the application of D. José Narciso Cavasos, which, as they were disapproved and annulled, could not give him any right, and this, together with the fact of his not having appeared in the special tribunal, either in the three months which were assigned to him, or in the other seven which have elapsed since, induces a violent presumption that his opposition was malicious and unfounded, and raised (deducia) with the object of hindering and delaying the resolution of the matter to the prejudice not only of D. José Salvador de la Garza, but also of the royal treasury; on which account it is proper that it be neither considered as of moment, nor worthy of such attention as to delay or suspend, on its account, the confirmation. And as to the deduction and abatement of the price of the sitios, made by your special judge, although, on the one side, it must be considered that the cause of the sale of the said sitios coming to be made as high as twenty dollars was that D. José Salvador de la Garza had suffered so much opposition, and his opponents had learned the necessity he was in of obtaining these lands, on account of his stock having been established in them, so that, assured by this circumstance, that Garza would not hesitate (repararia) as to the price, by a motive of malignity, and to do him an injury, as the justice (teniente) states, they ran up the sitios to twenty dollars. Still, on the other side, it is to be noticed, that as to the bid of ten dollars, it cannot be said that there was fraud in it, because this bid is not so much out of proportion with the two dollars at which the sitios were valued, and this is more evident, since, (Ymas enundo), as the attorney of the treasury (abogado fiscal) states, and the aforesaid order of your special judge supposes, in those provinces the sitios are generally worth two, three, or four dollars, the distance from which sum to that of ten dollars is not so great that it can be said to exceed the bounds of justice, particularly if we reflect that things are worth as much as they will bring. On which considerations, it is the opinion of the fiscal (*i. e.*, the attorney-general or chief law-adviser of the crown) that it would be proper to reduce and abate the amount of twenty dollars, at which the property was knocked off, (se verificó el remate,) to that of ten dollars, which is the mean, and at which the first bid was made. Wherefore, your highness will be pleased, if it should be your supreme pleasure to confirm and approve the grant and sale, made by the special tribunal to D. José Salvador de la Garza, of the lands of the Potrero named the Esperitu Santo, under

the limits and natural outlines (terminos y linderos) which the surveys state, (que expresan los medidas,) to do so with the proviso that he must contribute and pay the other two dollars belonging to each sitio, its price being reduced to that of ten dollars, the proceedings being then returned to the said tribunal, in order that after the aforesaid payment is made the corresponding title may be issued to him. Mexico, October twenty-first, one thousand seven hundred and eighty. MERINO.

Mexico, December eleventh, one thousand seven hundred and eighty. Let it be reported with the proceedings annexed. The Regent VILLARRUTIA. Asedo, Licenciado FLORES.

In the city of Mexico, on the eighteenth day of July, one thousand seven hundred and eighty-one, the president, regent, and oidores (precidente, regente y oidores) of the royal audience of New Spain, having examined the proceedings which the oidor, Don Francisco Xavier de Gamboa, special judge of lands and waters, has reported as to the denunciation made by D. José Salvador de la Garza, of the Potrero named Esperitu Santo, in the colony of New Santander, in which are comprised fifty-nine sitios of Ganado Mayor, and eleven cabellerias of land, in order that the adjudication which the said judge, on the twenty-ninth day of July, made of the said sitios and cabellerias of land might be confirmed, reducing the price from twenty dollars, to which the bids that were made ran, to that of eight dollars, to which it amounts by quadrupling the estimated value of the said sitios for the reasons which he states in his order; having examined likewise the proceedings that were had by order of the said minister for the said adjudication, and what is asked by the fiscal of his majesty in his reply of the twenty-ninth of October of the same year of eighty, with the other fitting circumstances, have said that they confirmed and have confirmed (confirmaron y confirmaron) the grant made by way of sale by the aforesaid special judge of lands to D. José Salvador de la Garza of the sitios and cabellerias which his decree of the twenty-ninth of July of the year last past comprehends, with the proviso that the price of each one of them must be paid at the rate of ten dollars, and consequently whatever with respect to this is wanting to complete this amount must be contributed and paid, as likewise the sum of one hundred dollars as a contribution to his majesty for the favor conferred in excusing him from having to apply to his royal person for the confirmation in the form provided in the royal order (cedula) of the fifteenth of October, one thousand five hundred and fifty. And they likewise ordered and have ordered (mandaran y mandaron) that, for the prompt fulfilment of all, everything respecting this subject be returned to the aforesaid tribunal of lands. And so they have decided and signed by their rubrics. Regente, VILLARRUTIA. Asedo, LUGANDO, JOSE MAXIMO VALASECA. This corresponds with the original, to which I refer. I certify. JOSE MAXIMO VALASECA.

To the Royal Officers of the Royal Chest and Treasury of this Court. Be pleased to order the receipt from D. Jose Salvador de la Garza of a hundred and eighteen dollars, on account of the two additional dollars for each sitio of the fifty-nine, which D. Francisco Xavier de

Gamboa, special judge of lands and waters, has adjudicated and granted to him by way of sale in the colony of New Santander, as is provided by the Royal Audience, and also one hundred dollars that the said Royal Tribunal has fixed for the favor of the confirmation. And this amount shall be accounted for separately in view of what is usual for its remittance to Spain in the customary form, this order being returned endorsed that it may appear in the proceedings upon this subject. Mexico, the twelfth of September, one thousand seven hundred and eighty-one. JOSE DE MONTALVAN, Royal and Provincial Notary.

Entered on the Reverse of the hundred and seventy-third leaf of the book of orders (villetos) on the thirtieth day of September, one thousand seven hundred and eighty-one. BARRANDEGUEL.

On the thirteenth of September, one thousand seven hundred and eighty-one, the two hundred and eighteen dollars contained in this order were paid into these Royal Chests (cajas.) MEXIA—CARILLO.

On the thirteenth of September, one thousand seven hundred and eighty-one, D. Salvador de la Garza, to whom the Royal Audience of this capitol has confirmed the grant which D. Francisco Xavier de Gamboa, as special judge of lands, has made to him of fifty-nine sitios within the limits of the colony of New Santander, ordering him to pay two dollars more for each sitio on the price for which the grant was made to him, has paid into the Royal Chests of this Court sixteen dollars, five reals, nine grains, which the Royal duty of Media annata caused, in this form, two dollars, seven tomines, three grains, as the half of the income at five per centum per annum of the sum of one hundred and eighteen dollars, the amount of the two additional dollars on the value of the lands, and the remaining thirteen dollars, six timenos, six grains, for the favor of the confirmation: as is shown by the order, which with the endorsement of the Royal officers, remains in this general office of accounts under my charge. In testimony whereof, and that it may appear whenever proper, I give the present certificate in Mexico, on the said day, month and year, on account of the absence of the accountant. DIEGO DE CAVARRULEIAS.

In consideration of the order of the President Regent and Oidores (Presidente Regente y Oidores) of the Royal Audience, and in pursuance of a decree which I made on the tenth of the current month, I have determined to issue these presents, by which, exercising the powers conferred on me by the Royal decree and instruction of the fifteenth of October, seventeen hundred and fifty-four, I declare that D. José Salvador de la Garza has complied with what is ordered in it (*i. e.*, the Royal order,) and in the name of his Majesty, (whom may God preserve,) and without prejudice to any third person or community of Indians, I admit him to purchase. I adjudge and grant, by way of sale, fifty-nine sitios of Ganado Mayor, and eleven caballerias of land within the limits of the colony of New Santander, and not exceeding its natural boundaries (*linderos*) I supply and dispense with any defect in the grant or vicious titles, and the defects in his possession of these lands, in order that he may not be obliged either on this account, or on any other, to submit to a re-survey, (*no se le oblique á medidas*,) nor compelled to exhibit any other title to be given

to him, since I now give him as ample and sufficient a title as he may have need of for the property (*propriedad*) of the said lands; whose fruits, and whatsoever ways, (*entrados y selidas*), uses, customs, and servitudes it has and possesses by custom and by law, (*de fuero y de derecho*), he may enjoy, without excepting or reserving anything from the said D. José Salvador, or whoever may have his title (*causa*) or represent his rights, with the proviso that he must stock and cultivate them with what they require, in conformity with the ordinances of the kingdom which treat upon this subject, and that, if at any time the whole or any part of the said land is needed for any establishment (*fundacion*) of a fort, town, or place, he must leave what may be thus needed, free and unencumbered (*libro y desembarasado*) on being paid what it may be worth at the time, (*pagandole lo que a la sazón valiere* :) with which provisos let them (*i. e.*, the lands) be his and his heirs and successors, as held and acquired by their own and a legitimate title of property, which is these presents, and I order the Justice of that province, whenever the aforesaid Don José Salvador de la Garza may ask it, he shall give him entry, and put him in possession of the said lands, on the citation of the adjacent proprietors, notwithstanding any opposition, and without allowing any diminution of his rights, (*in causa despujo alguno*), and that the said Justice shall not consent that he be deprived of the possession given him without being first heard according to custom and law, delivering to him when this is done, (*vencido*), the proceedings which may be had in continuation of this title as a protection of his right. Mexico, the twenty-sixth of September, one thousand seven hundred and eighty-one—interlined fifty-one—incorrect—crossed out: exilutium fifteen: of the province: thirty and—incorrect. DON FRANCISCO XAVIER DE GAMBOA, by order of the Oidor and Special Judge—Joseph de Montalvan, Royal and Provincial Notary—Fees, sixty dollars, including paper and writing, and no more, upon my oath, (*asi lo jurg—a rubric.*)

Your Honor admits to purchase, adjudicates and grants by way of sale, fifty-nine sitios de Ganado Mayor and eleven caballerias of land within the limits of the colony of New Santander, to D José Salvador de la Garza, in consequence of his having paid into the Royal Chest of this Court, the amount of their price, the favor of the confirmation, and the media annata, charged to him, etc.

Mexico, September twenty-sixth, one thousand seven hundred and eighty-one—Title of purchase, adjudication, and grant of fifty-nine sitios de Ganado Mayor, and eleven caballerias of land bende, made by the special Judge of this kingdom, and confirmed by the Royal Audience, in favor of D. José Salvador de la Garza, a citizen of the town of Camargo, within the limits of the colony of New Santander, etc.

On the first title-page of the old title. Titles of lands in the Potrero named that of the Esperitu Santo margios (*maginis*) of the Lagunas of the Sea of the Gulf of Mexico, acquired (*conquisitados*) by Don José Salvador de la Garza, resident of the town of Camargo, in the year 1781. A Rubric.

To his Excellency the Governor: I, the citizen Juan José Tigerina, a resident of the city of Matamoras, appear with due respect before

your excellency and say: That the citizen, the first alcalde of my residence, exhibiting a decree issued by the supreme government on the twenty-ninth of July, one thousand eight hundred and thirty-one, in relation to the proprietors of the lands for ejidos (los terrenos para ejidos) appearing at this capital with the documents of their property for the making of the indemnification, informed me that within the period of three months I ought to present myself to your excellency with my title for what respects the part which belongs, on the other side of the Rio Grande, to my wife, Doña Feliciana Gozeascochea, whom I represent, in order that your excellency, having recognized and admitted it as sufficient, might proceed as speedily as possible to the aforesaid indemnification. In pursuance whereof, I present the title of the lands, in which is comprised the part of my wife and of her fellow owners, praying your excellency to condescend to return it to me after its examination, and the recognition and acknowledgment (certificacion) which it deserves. It is justice which I ask. City of Victoria, June fourth, one thousand eight hundred and thirty-four. JUAN JOSÉ TIGERINA.

City of Victoria, June twentieth, one thousand eight hundred and thirty-four. The title of acquisition which the citizen Juan José Tigerina has presented of the lands known by the name of the Potrero del Esperitu Santo, having been recognized and admitted as sufficient: Let this written order (Escrito) pass to the citizen alcalde of the town of Matamoras, in order that, after causing a calculation to be made at the foot (calce) of this decree of the quantity of land that has been taken from the said Tigerina, out of which is comprised in the said title, for the ejidos of the town, and its worth, which experienced appointed by the party, and by the Ayuntamiento, with a third upon their disagreement, (en discordia,) whom the same alcalde shall select, in case of difference of opinion he may remit what has been done to this government for its final disposition. FERNANDEZ. A rubric. Gabriel Areos, chief clerk. A rubric. This is a copy, which I, the citizen, Simon de Castro, first constitutional alcalde of this capital, certify in due form of law to have taken literally, faithfully, and legally from the original, which for this purpose the interested party has presented to me, and I have returned to him, on which document is printed (estampado) the corresponding decree, signed with the handwriting and rubric of his excellency the governor of this State and the secretary, whose signatures I certify I know, and they are the same which they are accustomed to use. All of which I set down for its proper proof; and at the request of the interested party I give this certificate, which I sign with my assisting witnesses, with whom I act conformably to the law, in the city of Victoria, on the twenty-first day of June, one thousand eight hundred and thirty-four, the eleventh, etc. I certify. SIMON DE CASTRO. Assisting witness, Hilario Lozo. Assisting witness, Francisco Garcia.

This corresponds (es conforme) with the original documents, which are in the custody of D. Juan Tigerina, and which he has presented to me to take in duplicate the present copy; which documents, rubricated by me, have been returned to the party as he has requested, and from which this is faithfully and legally taken, corrected and

and authorized by the said court to present to your honor the letter rogatory which I annex, and Juan Treanor, a resident citizen of the city of Matamoras, and attorney in fact of Don Rafael Garcia Cavazos and Doña Maria Josefa Cavazos, his wife, very respectfully represent to your honor that as well justice as the interests of the said parties demands that the depositions of the witnesses named in the said letter should be taken according to the form indicated in it. Wherefore, we pray your honor to be pleased to order that all that is necessary in the present matter should be despatched in order to comply with the desires of the said court.

WILLIAM G. HALE,
JOHN TREANOR.

CAMARGO, *April 6, 1850.*

CAMARGO, *April 8, 1850.*

Presented and admitted, so far as the law admits. Let the citation be made of the witnesses named by the parties, that they appear before this tribunal from this very day, at three of the afternoon, and let their testimony be taken under the interrogatories annexed to the preceding letter. I, Nieves Villareal, first alcalde and judge of the first instance of this aforesaid town of Camargo and its jurisdiction, have thus provided, ordered, and signed with my assisting witnesses, for want of a notary public. I certify.

NIEVES VILLAREAL.

Asst. witnesses—

CRISTOVAL MORALES,
MAXIMO MORALES.

Thereafter, before me, the said judge, and in this my court, appeared in proper person the citizen Nicolas Garcia Garza, whom I certify I know; I administered to him the oath in due form of law, under which he declared he would state the truth as to all that he might know and should be asked; and being interrogated in relation to the suit headed "In Chancery, D. Rafael Garcia Cavazos and others vs. Charles Stillman and others," in his first answer to the first interrogatory therein contained, he said that he knows D'a Maria Josefa Cavazos and D'a Estafana Gozeascochea de Cortina, complainants, and D'a Maria de los Angeles Garcia, who was the widow of D. Ramon Safen, and also D. Manuel Prieto, defendants.

To the second interrogatory: That he is eighty-three years of age; that his life has been spent in this republic of Mexico, with his residence in this town.

To the third interrogatory he answered: That he was personally acquainted with Don José Salvador de la Garza quite a number of years since his marriage, and that his residence in this town gave him the opportunity of knowing him.

To the fourth interrogatory he answered: That D. José Salvador de la Garza generally lived in this town; that the site of his dwelling exists to this day; being the same which bears the name of D. Antonio Oliviera, deceased; that it consisted of a chamber and hall (de racamara sala,) an entrance, (zabuan,) and store, and that it was built of unburned brick, (adobe.)

To the fifth interrogatory he answered: That D. José Salvador de la Garza was a man quite rich in stock, (bienes de compo;) that he was much esteemed and respected in this town, and, though he does not recollect the offices which he held, his condition and importance was equal to that of the first in Camargo.

To the sixth interrogatory he answered: That D'a Gertudis de la Garza Falcon was the wife of D. José Salvador de la Garza, and that their children were D. Blas Maria de la Garza, and D'a Margarita and D'a Xaviera de la Garza.

To the seventh interrogatory he answered: That D. Salvador de la Garza died at some place in the interior in returning from Mexico to this place, and that the said D. José Salvador had, as well as his memory serves him, been married about thirty years, more or less.

To the eighth interrogatory he answered: That he has been acquainted with the tract of land on the left bank of the Rio Grande by the name of Espiritu Santo since he had the use of reason, and began to visit the said tract of land under which name it is generally known, and deponent must have been a little less than fifteen years of age when he was for the first time in the said place.

To the ninth interrogatory he answered: That among the various conveniences that the tract of land of which he speaks possesses, that it has this in particular, that it is enclosed by nature on the four sides, from which circumstance it derives the name of Potrero, since on the east is the sea, in the south the Rio Grande, in the west the dense thicket and Arroyo Colorado, and on the north the Lagunas Madres that come from the sea; and the land that is enclosed under these points was that recognized as belonging to D. José Salvador under the name aforesaid.

To the eighth interrogatory he answers: That D. Salvador de la Garza was the owner of the said tract of land when he knew it for the first time, and was reputed as such.

To the eleventh interrogatory he answers: That he knows that there was a controversy between D. José Salvador de la Garza and D. José Narciso Cavazos with reference to the point of Santa Rita, which the latter had settled; it terminating by the heirs of Don José Salvador, after the death of the latter, ejecting the said Cavazos from the place he was settling.

To the twelfth interrogatory he answers: That when he was acquainted with the said tract of land there was danger from the Indians there, the same as on the rest of the frontier, and that once when the Indians were committing depredations they carried off quite a large drove of horses, part of which the soldiers of this town took from them at Loma Blanca, and another part was dispersed in the skirmish that the troops had with the Indians.

To the 13th int. he answered: That there were some domesticated Indians in the tract before mentioned, designated as the Blacks and Mulattoes, and they recognized as their master D. José Salvador de la Garza, with whose permission they occupied with their villages (rancherias) whatever place suited them within the Agostadero del Esperito Santo.

To the 14 int. he answered: That Don José Salvador had a very

great number of cattle, horses, and mules, in the aforesaid tract of land, and the cattle-pens and hacals were situated almost in the centre of the Agostadero in the middle of a Prairie, on a pond that supplied him with abundance of water, named the Rancho of Espirito Santo; that they afterwards found another Rancho under the name of El Tanque, and called the first Rancho Viejo, and some time still afterwards, that they established another Rancho in San Martin; that he had the peons necessary for the Rancho, and had no fields (Labores.)

To the 15 int. he answered: That as to the horses, mules, and so forth, that the said D. José Salvador had in the said tract of land, the stock minders had no other difficulty in managing them than to brand them, since as to the rest, they were safe, from the fact of the said Agostadero having only three entrances, one towards the bank of the river, near the mouth of the Arroyo Colorado, another in front of Currasitos, and another in the Arroyo above named.

To the 16th int. he answered: That D. Blas Maria de la Garza married Doña Francisca Cavazos, daughter of Don Narciso Cavazos, and died after Don José Salvador.

To the 17th int. he answered; That Doña Margarita de la Garza married D. Pedro Lopez Prieto, and had two sons, who were Don Antonio and Don Manuel Prieto, of whom only the last is living.

To the 18th int. he said: That Doña Jubiera de la Garza married Don José Gozeascochea, who had only two daughters, who were Doña Estafana and Doña Feliciana Gozeascochea.

To the 19th int. he answered: That the heirs of D. Pedro Lopez Prieto, of Don Jose Gozeascochea, and of D. Blas de la Garza, have had possession of the said tract of land of the Agostadero del Espirito Santo, as owners and proprietors, since the death of Don José Salvador.

To the 20th int. he answers: That he did not know or has he known any other owner of the said Agostadero than Don José Salvador and his heirs; and as to the grant, he understands that it was made in the time of the king, and not by the State of Tamaulipas, since he remembers that Don José Salvador de la Garza had to go into the interior, and when he was bringing back the titles to the land, he died on the road on his return, but the titles, nevertheless, came to the possession of his family.

To the 21st int. he answers: That Doña Estafana Gozeascochea de Cortina has lived near the Rancho of Santa Rita in the last year, 1848, and before the said year.

To the 29th and last int. of the set, he answers: That he knows nothing more than what he has stated in this his deposition, and it is the truth, upon the oath which he has taken; and when this deposition was read to him, he said it was the same he had stated, and confirmed and ratified it, signing it for proof thereof, with me, the said Judge, and my assisting witnesses, according to law. I certify. interlined; dense thicket; correct. I certify.

NIEVES VILLAREAL.

NICOLAS GARCIA GARZA.

ass. wit.

CRISTOVAL MORALES.

ass. wit.

MAXIMO VALVERDE.

In this town of Camargo, and on the ninth day of the month and year aforesaid, before me, the undersigned judge, and in this my court, a citation having been previously made to him, appeared Don José Antonio de la Garza Falcon, and I administered to him in his proper person, which I certify I know, the oath in due form, and upon it he declared that he would state the truth as to all that he might know and should be asked; and being interrogated according to the first interrogatory of the set that heads the suit "In Chancery, D. Rafael G. Cavazos *vs.* Stillman and others," he answered:

That he is acquainted with Doña Estafana de Cortina, among the plaintiffs, Doña Maria de los Angeles Garcia de Safen de Tarneva, with Doña Feliciana Gozeascochea de Tigerina, and with Don José Manuel Prieto, among the defendants.

To the 2d int. contained in the aforesaid set, he answers: That he is seventy-eight years of age, and during his life has lived in this town.

To the 3d int. he answers: That he was personally acquainted with Don José Salvador de la Garza, something like four years after attaining the age of reason, and had also opportunity to become acquainted with him by living in his own house while he was living.

To the 4th int. he answered: That D. Salvador de la Garza lived in a house in this town, which is known as that of the late Don Antonio Olivera, and it was then constructed of unburnt brick, and was composed of a hall, entrance chamber, and store.

To the 5th int. he answered: That D. José Salvador de la Garza was rich, and respected as such in the country, and held in high esteem as the son-in-law of the captain and chief justice, who then held these offices in this town; that he does not recollect the occupation of any public station which Don José Salvador held, but he does recollect that his position was that of a man who possessed great means.

To the 6th int. he answered: That D'a Maria Gertudis de la Garza Falcon was the wife of Don José Salvador de la Garza, and they had the following children: Don Blas Maria, Doña Margarita, and Doña Javiera de la Garza.

To the 7th int. he answered: That D. Salvador de la Garza died on the road from Mexico, on his return to this town; that he does not recollect when nor how long he was married, but he recollects that one of his daughters, Doña Margarita, who was the youngest, was already married at the time of the journey of Don José Salvador to Mexico.

To the 8th int. he said: That he knows the tract of land situated upon the left bank of the Rio Grande del Norte, commonly known by the name of Potrero de Esperitu Santo, under which name he has heard it mentioned from the first years he had understanding, that he has been in the said tract, and recollects that the first time was in the year 1814.

He answered to the 9th interrogatory, saying: That the aforesaid agostadero has considerable and excellent advantages in woods, bayous, lagunes, of fresh and salt water, prairies; and the principal advantage is, that the said agostadero is enclosed by nature, from which circum-

stance its name evidently comes, since on the south the Rio Grande washes it; on the western side is a dense thicket, which reaches from the Arroyo Colorado to the river, and a part of the same Arroyo; and on the north the same Arroyo Colorado and the Laguna Madre, the sea bounding the said agostadero on the east; that he does not know what are the landmarks of the said agostadero, but that he knew that from the entrance into the Potrero, which was on the side of the thicket with bars, within was the property of Don José Salvador de la Garza.

To the tenth interrogatory he answered: That he has heard of the dispute which Don José Salvador had with Don Narciso Cavazos in relation to the tract in question, and he believes that in consequence of this Don José Salvador went to Mexico, and that on his way back from thence, after accomplishing his object, he died on the road; that since, in virtue of the good title which was made to the heirs of Don José Salvador, they ejected Don Narciso Cavazos from the said tract, and thus terminated the said controversy.

To the twelfth interrogatory he answered: That in this country there were Indians both hostile and peaceable, and that it was not safe to live on this tract. He recollects that the savages made an incursion on this tract and in others on this side, and from various places carried off about ten thousand animals. He moreover remembers that, although the troops of Captain Paredes fought them at Santa Rosa, they did not succeed in recovering the stolen property.

To the thirteenth interrogatory he said: That in the aforesaid agostadero there were peaceable Indians, blacks, and mulattoes (a la paguanes.)

To the fourteenth interrogatory he answered: That it was the general report that Don José Salvador had on the said tract a great number of cattle, horses and mules, and no small stock; that the hacales and cattle-pens (corrales) of the first rancho were established in a plain on the bank of a pond of water nearly in the centre of the agostadero of Esperitu Santo, but it was known by the nickname of Posole; that now, since other ranches have been settled, it is known by the name of Rancho Viejo; that on the said rancho there were the people necessary to attend to the stock, and there were no fields cultivated.

To the fifteenth interrogatory he answered: That in the aforesaid agostadero, Don José Salvador de la Garza had his stock secure enough, being enclosed by the draw bar-gate, through which they were driven.

To the sixteenth interrogatory he answered: That Don Blas Maria de la Garza married Doña Francisca Cavazos, and died since the decease of Don José Salvador.

To the seventeenth interrogatory he said: That Doña Margarita de la Garza married D. Pedro Lopez Prieto, and Don Antonio and Don Manuel Prieto were her children; that Don Antonio died, and that Don Manuel alone is living.

To the eighteenth interrogatory he answered: That Doña Javiera de la Garza married Don José de Gozeascochea, and had two daughters, Doña Estafana and Doña Feliciana Gozeascochea, who are now living.

To the nineteenth interrogatory he answered: That the heirs of Don José Salvador have had possession of the said tract of agostadero, known by the name of Potrero of Esperitu Santo, since the death of Don José Salvador as the legal owners and proprietors of the said agostadero.

To the twentieth interrogatory he answered: That according to his knowledge the tract of Esperitu Santo was sold to D. José Salvador in the time of the king, from whom he received the first title before Tamaulipas was constituted into a State, for which purpose the said Don Salvador went to Mexico.

To the twenty-first interrogatory he answered: That Doña Estafana Gozeascochea de Cortina did live, and lives a little above the ranch of Santa Rita, within the same agostadero, and lived there in the year 1848, and before, up to the present year.

To the twenty-ninth and last question of the said interrogatories he said: That he knows nothing more which might be of benefit or advantage to the plaintiffs or defendants than what he has stated, and that it is true upon the oath which he took. His deposition was read to him; he said it was faithfully written, and that it was the same he had given, and that he had nothing to add or to subtract from it, and confirmed and ratified it, signing it for proof thereof with the said judge, and my assisting witnesses, with whom I act for want of a notary public, there being none within the legal limits. I certify.

NIEVES VILLAREAL,
JOSÉ ANT. DE LA GARZA FALCON.

Ass. wit., CRISTOVAL MORALES.

Ass. wit., MAXIMO VALVERDE.

In the aforementioned town of Camargo, on the tenth day of the month of April, and in this year, before me, the same judge, and in this my court, a citation having been previously made to him, appeared D. Juan Manuel Ramirez, and in his proper person, which I certify I know, I administered to him the oath in due form of law, and upon it he declared that he would state the truth as to all that he might know and should be asked; and being interrogated according to the first interrogatory of the set which heads the suit entitled "In Chancery, Don Rafael Garcia Cavazos and others vs. Charles Stillman and others," he answered: That he knows Don Rafael Garcia Cavazos and Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, the plaintiffs; that he is only acquainted with three of the defendants, Don Carlos Stillman, Doña Maria de los Angeles Garcia Safen de Tarneva, Doña Feliciana Gozeascochea de Tigerina, and Don José Manuel Prieto, and Señor Stillman only by sight.

To the second question of the same interrogatories he answered, saying: That he is fifty-four years of age, and that during his life he has lived in this town.

To the twenty-second question of the same interrogatories he said: That he has known the agostadero, which is called the Potrero of Esperitu Santo, situated on the left bank of the Rio Grande, from his infancy, and also its proprietors, Doña Javiera de la Garza, Don

Blas de la Garza, and D. Antonio and D. Manuel Prieto, these last nephews of the first owner, Don José Salvador de la Garza.

To the twenty-third interrogatory he answered: That Doña Javiera and her family, the wife of D. Blas de la Garza, Doña Maria Francisca Cavazos and her family, and Don Antonio and Don Manuel Prieto, since he has known them, have been in possession of the said tract, and hence been reputed the owners of the said agostadero.

To the twenty-fourth interrogatory he answered, declaring: That according to general repute and belief, the tract was originally granted to Don José Salvador de la Garza in the time of the king.

He answered to the twenty-fifth interrogatory and said: That the ranches that the deponent knew are Santa Rita, el Tanque, and a Reparo, that were occupied by the same heirs as owners; that the stock of cattle, horses, and so forth, with which he was acquainted after the death of Don José Salvador, and belonging to the owners already mentioned, were very numerous; and he saw them, as has been already said, in the earliest years of his life, on account of deponent's father being at that time administrator of the stock farms of horses and cattle already mentioned; and he saw the same exceeding great number of stock even after this time, also while Don José Ignacio Trevino managed the said stock farms.

He answered to the twenty-sixth interrogatory: That he knew D'a Francisca Cavazos when married to Don Blas de la Garza, and also when a widow, living within the said tract, on a rancho below that of Santa Rita, on the bank of the Rio Grande.

To the twenty-seventh interrogatory he answered: That he remembers a suit which Doña Francisca Cavazos had with the Ayuntamiento of Matamoras for land in front of the said place, which they wished to take for ejidos lands, and she always resisted the claims of the ayuntamiento, combatting them in the suit, the result of which or termination he does not know.

To the twenty-eighth interrogatory, after having examined the document contained in the paper marked *F*, he said: That the copy of the testament of the deceased, Doña Maria Gertudis de la Garza Falcon, which is contained in the said document, signed by Santiago Dominguez, is faithfully and legally translated from the original, which is in the archives of this town of Camargo. At the act of comparison and correction he was present; that the said Don Santiago Dominguez, when, in the past year of eighteen hundred and forty-nine, he signed the aforesaid document, was invested with the office of first rejidor of the ayuntamiento and judge of the first instance, in turn, of this town, and the signature at the end of the said document and in the margin is his own, made with his own hand, and the same one used by him in all his business.

To the twenty-ninth and last question of the interrogatories aforesaid he answered: That he knows nothing more which might be of benefit or importance to the plaintiffs or defendants than what he has said in answer to the interrogatories propounded to him; all of which is true in virtue of the oath which he took. After his deposition had been read to him he said it was the same that he had given; that he had nothing to add to it or subtract from it, and confirmed and rati-

fied it, signing it for proof thereof with me, the said judge, and my assisting witnesses, for want of a notary public. I certify. NIEVES VILLAREAL, JUAN MAN'L RAMIREZ. Asst. wit., Cristoval Morales, Maximo Valverde.

Camargo, April 10, 1850. In consideration of the condition of this testimony, and there being no more witnesses to testify in the present suit, it is my duty to declare, and I do so declare, it concluded, ordering, in consequence thereof, that the original be forwarded, together with the letter rogatory in which it is requested, stating the number of leaves that this testimony contains. I, NIEVES VILLAREAL, first alcalde and judge of the first instance of this aforesaid town of Camargo and its jurisdiction, so order by this decree, and sign, acting with my assisting witnesses for want of a notary public. I certify. NIEVES VILLAREAL. Ass. wit., Cristoval Morales. Ass. wit., Maximo Valverde.

In fulfillment of what is ordered in my foregoing decree, and on the same day this testimony, together with the letter rogatory in which it is requested, was directed to the clerk of the district court of the United States of America for the district of Texas, being composed of nine legal leaves, which, for proof thereof, I sign with my rubric.

A rubric.

The copy of the will of Doña Maria Gertudis de la Garza Falcon is added to this testimony, on seven legal pages.

On the envelope.

Letter rogatory, which, together with the testimony which it requests, is directed to the clerk of the district court of the United States for the district of Texas, in relation to the suit entitled "Don Rafael Garcia Cavazos and others against Charles Stillman and others."

From the first court and that of the first instance of Camargo.

VILLAREAL,
Galveston.

I certify that the foregoing is a correct translation of the original, made under an order of the court.

WILLIAM G. HALE.

10.

Copy of the Testament of Doña Maria Gertudis de la Garza Falcon.

The following document or copy of will was offered in evidence by complainants at the hearing, and objected to by the defendants as incompetent evidence :

The following were assigned as special objections to the same : That

the validity of the original will, and that it took effect as the will of the testator by the laws of Mexico, are not shown by complainants. That the execution of said will is not proved sufficiently; that this copy offered in evidence is not sufficiently proved to be admitted in evidence; nor is it sufficient proof *any valid* original will. That it is not sufficiently identified as the one proved by the witnesses before the authority taking the depositions in Mexico. That it was not attached to or sufficiently identified with the original interrogatories.

All which objections were overruled by the court, and the said document or copy was read in evidence by complainants.

JAMES LOVE, *Clerk.*

CONSULATE OF THE U. S. A.,
Matamoras, Mexico.

I, Thomas W. Slemons, consul of the United States of America for the port of Matamoras, do hereby certify that Joaquin Arguelles, who attests the annexed document under his own proper signature, to me, the said consul, well known, is, and was at the time of signing the same, a notary public in and for the city and port of Matamoras, and that to all his acts as such full faith and credit are given in and out of judicature.

In testimony whereof, I hereunto subscribe my name and affix the seal of my office this 16th day of May, 1849.

[SEAL.]

THOMAS W. SLEMONS.

On the back.

This document was annexed to the deposition of Santiago Dominguez from Camargo, and was withdrawn by leave of the court. JAMES LOVE, clerk of the United States district court, district of Texas.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

I, James Love, clerk of the district court of the United States for the district of Texas, certify that the foregoing fifteen pages contain a true and perfect copy of the document marked *F*, originally filed in the chancery case No. 41, Rafael Garcia Cavazos *et als.* vs. Charles Stillman *et als.* Which original is withdrawn by leave of the court, and this copy filed in its stead.

In testimony whereof, I hereunto set my hand and affix the seal of said court, at Galveston, this twenty-fifth day of August, A. D. 1854.

[SEAL.]

JAMES LOVE, *Clerk.*

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

RAFAEL GARCIA CAVAZOS *et als.* }
vs.
 SIMON MUSSINA. }

Translation of the copy of the testament of Doña Maria Gertudis de la Garza Falcon, annexed to the depositions from Camargo.

On the outside cover.

A literal copy of the testament made by Doña Maria Gertudis de la Garza Falcon, on the 16th of August, 1789. The said copy was ordered to be made at the verbal application of D. Juan Treanor, the general attorney in fact of various heirs of the grantor in the town of Camargo, on the 5th of May, 1849. Judge of the 1st Instance D. Santiago Dominguez, with assisting witnesses.

In the name of Omnipotent God, and of the Most Holy Virgin Mary, conceived without stain or shadow of original sin in the first moment of her purest existence, Amen: Be it known and notorious that I, Doña Maria Gertudis de la Garza Falcon, a native of the town of San Gregorio de Zerralvo, and a citizen and a settler of this town of Santa Anna de Camargo, in the colony of New Santander, being as I am seriously unwell by reason of an accident with which God our Lord has designed to visit me; but in my full and perfect natural judgment, memory, understanding, and will, believing, as I most firmly and truly believe, in the Mystery of the Most Holy Trinity, Father, Son, and Holy Ghost, three distinct persons, and one only true God. I likewise believe in the mystery of the Incarnation of the Divine Word, all that our Holy Mother, the Roman Catholic Apostolic Church, holds, believes, and confesses, in the faith and belief whereof I have lived, and declare that I live and die as a Catholic christian redeemed by the infinite price of the blood of our Lord Jesus Christ, and fearing death, which is a consequence of our nature, and desiring to save my soul, I select as my Patrons, Advocates, and Defenders in the Tribunal of God, where I am to appear to give an account of my life, the Most Holy Virgin Mary, Mother of God, her most chaste husband, St. Joseph, Saint of my devotion, and my Guardian Angel, that, taking my soul away from this world, they may bear it to the safe harbor of my salvation, where I hope they will intercede for it; and because it is my desire, and I wish to save my soul, I make my last disposition and will, so far as it can and ought to have effect, in the following form:

First. I commit and commend my soul to God, our Lord, who created

it, and redeemed it with the most ineffable price of his holy blood, and I ask and pray his Divine Majesty to take it to himself in his glory for which it was created, and my body I commit to the earth of which it was formed.

2 item: I order, and it is my will, that when God, our Lord, shall be pleased to take me from this life for that which is eternal, my body should be buried in the chapel of our Lady of Guadalupe, in the burial clothes prescribed by our father St. Francis, and with the greatest decency that the place may permit.

3 item: I declare that I was married according to the ritual of our Holy Mother Church, to D. José Salvador de la Garza, now deceased, by which marriage we had and begot three children, named Doña Francisca Xaviera de la Garza, D. Blas Maria de la Garza, and Doña Maria Margarita de la Garza, now deceased: so I declare, that it may be known.

4 item: I declare that my aforesaid daughter, Doña Margarita de la Garza, having married, according to the ritual of our Holy Mother Church, D. Pedro Lopez Prieto, two children were left, named D. Josef Antonio Margil and D. Josef Manuel Prieto: so I declare, that in may be known.

5 item: I declare as my property an estate (estancia) in the jurisdiction of the town of Reynosa, named Esperitu Santo, composed of a stock of horses and cattle, with a tract of land (Agostadero) of fifty-nine sitios, eleven and a half caballerias of land, the titles to which are in the house where I reside. I so declare, that it may appear.

6 item: I declare as my property the aforesaid house where I reside, together with all its appurtenances (Aguar): so I declare, that it may be known.

7 item: I declare by the death of my said husband, who died intestate, a judicial inventory was made of all the property which was left at his death, and my dotal and ganancial property having been separated from this, to the satisfaction of my heirs, the part belonging to them on the father's side was divided among them in equal shares: so I declare, that it may be known.

8 item: I declare as my property an estate, named Sombrerotillo, situated in the town of Zerrallos, which is under lease at twenty-two dollars per annum to Don Josef Luis and Don Tomas de la Garza of the said town: so I declare, that it may be known.

9 item: I declare as my property two portions of land, within the limits of this town, on the other side of the Rio Grande, each composed of two *sitios de Ganado Mayor*, and six caballerias of land: so I declare, that it may be known.

10 item: I declare that the stock mentioned in the fifth clause of this my will, which are in the aforementioned estate (Agostadero) of *Esperitu Santa*, mean those which are found with the brand in the margin, and the mark of one ear clipt on the side and in the other a small bit cut out of the front side, and also those found there strayed or wild, as well within as without the said estate: so I declare it, that it may be known.

11 item: I declare as my effects all the debts appearing on the books and registers of the mercantile concerns which my said husband con-

ducted, and which appear by the inventory to have been assigned to me: I so declare it, that it may be known.

12 item: I declare that in the aforesaid inventories, which were made on the death of my aforesaid husband, there was assigned to me some property to be applied to the payment of various debts, to which the estate of my said husband was liable, which I order to be set apart for this purpose: so I declare it, that it may be known.

13 item: I declare that, independently of the aforesaid debts mentioned in the preceding clause as belonging to my said husband, which likewise appear in the inventories aforesaid, I owe Don Josef Antonio Garcia, a citizen of Pesquiera Grande, I know not what amount, but on his establishing it by his book or books of accounts, I order my executors to pay it: I so declare it, that it may be known.

14 item: I declare that I am indebted to Don Nicolas Lamar, a travelling merchant, now in the town; D. Arsenio de las Fuentes, a citizen of Revilla; D. Nicolas Galan, a travelling merchant; and D. Josef Peroz Rey, of this town, the amounts that the aforesaid persons may establish by their books of accounts, or instruments of writing proving the debt, and, upon this being done, I order that they should be paid out of my said property: so I declare it, that it may be known.

15 item: I declare that I owe for the royal duty of Alcabala the amount appearing in a promissory note given for this purpose by my son D. Blas, who has obtained ample power for this object and the management of my property: I so declare it, that it may be known.

16 item: I declare that it is my will that every other debt which, through natural forgetfulness, I may have overlooked, should be paid, upon being established in the proper manner: I so declare it, that it may be known.

17 item: I order my executors to set apart from my said property the amount due for the forced bequests in the proportion of two reals for each one: I so declare it, that it may be known.

18 item: I declare that it is my will that a solemn service be celebrated every year, in honor of St. Joseph, on the nineteenth of his day; for which purpose I order my executors that out of that part of my property most easily realized, they put at interest, in the hands of some trustworthy person, the sum of six hundred dollars, invested in goats or ewes, in order that by the increase which is generally obtained from each hundred of them, the direction above given may be complied with: I so declare it, that it may appear.

19 item: I order that in the same manner two hundred dollars be taken and put at interest, in order that, by means of the income therefrom the number of masses which it will pay for, according to the charges fixed for their being read, which masses shall be devoted to the blessed souls of purgatory: so I declare, that it may be known.

20 item: I declare that it is my will that there be sung to our lady, Santa Anna de Camargo, a novenary of masses, the cost whereof my executors shall take from that part of my property most easily realized, that it may be done when it shall seem to them suitable: so I declare it, that it may be known.

21 item: I declare that I have given a gold cross with ear-rings and white stones, which appear in the inventories aforesaid as adjudged to

my patrimonial and ganancial property, to my daughter, Doña Javiera, provided that their value and that of the other bequests does not exceed the fifth of my property, as to which I can exercise my free will without injury to my other heirs: I so declare it, that it may be known.

22 item: And to execute and satisfy this my testament, and all contained in it, I select, appoint, and provide for my testamentary executors, trustees, and managers (tenedores) of my property, Don Pedro Gozeascochea, my son-in-law, Don Pedro Lopez Prieto, and my son D Blas Maria de la Garza, upon whom and each one of them, by himself *in solido*, I confer the power required in law to sell a sufficient amount of that part of my effects most easily realized, and to execute and pay the bequests and legacies of this my will, for which I charge their consciences, and what they may do shall have the same effect as if I should execute it: I so declare it, that it may be known.

23 item: And my said will having been satisfied and executed as to the rest of my property, rights, and actions appertaining to me, I institute and appoint as my universal heirs my aforementioned children, Doña Maria Javiera de la Garza, D. Blas Maria de la Garza, and D. José Antonio Margil and D. Josef Manuel Prieto, my grand-children, that they may have and inherit equally, with the blessing of God and my own: and I revoke and annul all other testaments and codicils which may have been made before this, in writing, verbally, or in any other way, that none may have any avail or credence except this, which I now grant and desire to have effect as my testament and last will, in the way and form which the law may best admit, and I pray that for its confirmation and validity the present may interpose his authority and judicial decree: and I, D José Antonio de la Garza Falcon, captain and chief justice of the town of Santa Anna de Camargo, interposed and do interpose my authority and judicial decree, on this the sixteenth day of August, one thousand seven hundred and eighty-nine, so far as I can, ought, or am allowed by law, and I certify that the grantor, in her entire and perfect judgment, memory, understanding and will, in testimony whereof she has thus granted these presents, and has not signed, not being able to do so, but I, the said judge, having done so, and the instrumental witnesses, who were D. José Perez Rey, D. Josef Lorenzo Treviño, D. Bartolomé Treviño, D. Tomas Gutierrez, and D. Ignacio Villareal, citizens of this aforesaid town, besides my assisting witnesses, with whom I act as examining judge, in the absence of every notary, there being none within the legal distance. All of which I certify. Interlined—which shall be devoted to the blessed souls of purgatory—correct—interlined—this the sixteenth day of August, one thousand seven hundred and eighty-nine—correct. Josef Perez Rey. Joseph Lorenzo Treviño. Bartolomé de Treviño. J'ph Tomas Gutierrez. Francisco Ignacio de Villareal. Before me, as examining judge, J'PH ANTONIO DE LA GARZA FALCON. Ass. wit., Francisco Camarilla. Ass. wit., Josef Luis de Olivares.

The above is a literal copy of the testament which it contains, the original whereof is among the archives (en esta archiva) to which I refer. It was made upon the verbal application of D. Juan Treanor, the general attorney in fact of various heirs of the grantor; it is in six legal leaves, the first and last on paper of the third seal, and the

Town of Reynosa, April 1st, 1850.

The foregoing having been presented so far as the law admits, together with the documents of the letter rogatory directed by the Judge of the District Court of the United States of America, dated at Galveston, District of Texas, I order it to be complied with, observed and executed in all its parts, together with the other documents referred to. In consequence thereof, let the proper citations be given to the witnesses that they may appear, and on concluding it, let it be returned in the original to the party interested. I, the citizen Manuel de la Viña, judge of the first instance of this town and its jurisdiction, so order and sign with my assisting witnesses for want of a notary public, there being none within the limits of the law. I certify.

MANUEL DE LA VINA.

Ass. wit.

CRISTOVAL LEAL.

Ass. wit.

MANUEL CAVAZOS G'BRA.

Thereafter the citations referred to in my foregoing order were served. In testimony whereof, I annex this note and my Rubric.—
A Rubric.

In the town of Reynosa, on the first of April, one thousand eight hundred and fifty, in compliance with the foregoing decree, appeared Don Romualdo Guerra, and I administered to him in his proper person, which I certify I know, the oath in due form of law, that he would tell the truth as to what he might know and should be asked; and having thus interrogated him according to the interrogatories addressed to him by the party which were read to and understood by him, he answered:

To the 1st interrogatory: That he is acquainted with Don Rafael Garcia Cavazos and Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, but he does not know Simon Mussina.

To the 2d interrogatory: That he is seventy-four years of age, and that he lives and has always lived on the bank of the Rio Grande as a native, as a citizen of this town, since though in his youth, and on his father's side he had some property at Santa Rosalia in the Agostadero del Esperitu Santo; those lands were attached to this town.

To the third interrogatory he said: That he was not personally acquainted with Don Salvador de la Garza.

To the fourth interrogatory he said: That he has heard it said that the aforesaid Don Salvador was a man of considerable means, respected and beloved by the people, for he became captain in the town of Camargo.

To the fifth interrogatory he said: That he was not acquainted with the wife of the said Don Salvador de la Garza; that his children were D. Blas de la Garza, and the wives of D. Pedro Prieto and D. José Gozeascochea, but he does not remember their names; that he does not know either how long the deceased, Don Salvador, was married.

To the sixth interrogatory he said: That he has been well acquainted with the Agostadero del Espiritu Santo since he was twelve years old.

To the seventh interrogatory he said: That the tract of land is between the Rio Grande, the Arroyo Colorado, and the bays of the sea; that in former times the name of Potrero was not given to it.

To the eighth interrogatory he said: That when he was acquainted with the said tract of land, it was in the possession of the three heirs of Don José Salvador, and that he recognized them as owners; and that by leave of Don Blas deponent's father settled in the said Agostadero.

To the ninth interrogatory he said: That he knows nothing of the subject of the interrogatory.

To the tenth interrogatory he said: That when he was acquainted with the tract of land, it was stocked with a great number of cattle, horses, and mules, but he cannot state certainly their number; and that he has already mentioned the heirs, who were Don Blas Maria de la Garza and his two sisters; he does not recollect their names.

To the eleventh interrogatory he answered: That he was well acquainted with D. Blas Maria de la Garza, and his father was Don Salvador, of the same name; that Don Blas married Doña Francisca Cavazos, and that they had no children that he knew, either in their life or after their death.

To the twelfth interrogatory he said: That he does not recollect in what town he died, but that during his life he was beloved and esteemed by the people.

To the thirteenth interrogatory he said: That he was personally acquainted with Doña Francisca Cavazos; that she survived her husband many years, but he does not know exactly the number; that the said lady in the place of Las Prietas, opposite to Matamoras, in which town she afterwards resided.

To the fourteenth interrogatory he answered: That he was personally acquainted with Doña Ignacia Cavazos, who lived in this town of Reynosa before and after the death of Doña Francisca Cavazos; that she was sister of the same lady; that Doña Ignacia was married to Don Maximo Cavazos, and they had the following children: Doña Josefa, Doña Bartola, Doña Juliana, Doña Gertudis, Don Narciso, and Don Maximo Cavazos.

To the fifteenth interrogatory he said: That from his youth he knew no others than the heirs of Don Salvador, and at the present time he recognizes Don Rafael Garcia Cavazos by his wife, Don Manuel Prieto by his father, Don Pedro, and Doña Estafana Gozeascochea by her mother.

To the twenty-third interrogatory he answered: That he has nothing more to state; that what he has said is the truth, which he confirmed and ratified when his deposition was read over to him, stating that he was named as above mentioned, married, in occupation a stock-raiser, of the Roman Catholic Apostolic religion, which, in proof thereof he signs with me, together with my assisting witnesses for want of a notary public. I certify.

ROMUALDO GUERRA.
MANUEL DE LA VIÑA.

Ass. wit.
CRISTOVAL LEAL.

Ass. wit.
MANUEL CAVAZOS G'RRRA.

In the town of Reynosa, on the second day of the month of April, appeared before me in my court Don José Antonio Zamora, of this vicinity, and I administered to him in his proper person, which I certify I know, the oath in due form of law, and the aforesaid witness declared that he would state the truth as to what he might know and should be asked; and being interrogated as to the tenor of the interrogatory to the first question, he said:

To the first: That he is personally acquainted with Don Rafael Garcia Cavazos and his wife, Doña Maria Josefa Cavazos, and that he does not know Doña Estafana Gozeascochea and Don Simon Mussina.

To the second interrogatory he said: That he is seventy-three years of age; that he has always been a citizen of this town, though he has resided most of the time in old Reynosa.

To the third interrogatory he said: That he was not acquainted with Don José Salvador de la Garza.

To the fourth interrogatory he said: That he does not know whether he was rich or not; that he has heard that he was a citizen of Camargo, and that he believes according to public opinion.

To the fifth interrogatory he said: That he does not know who was the wife of Don Salvador, but that he does know that Don Blas Maria de la Garza was his son, and that he was acquainted with him, as well as the sons-in-law of D. Salvador, who were Don Pedro Prieto and Don José Gozeascochea, but that he did not know their wives or anything further of the subject of the interrogatory.

To the sixth interrogatory he said: That he was acquainted with the Agostadero del Esperitu Santo under that name, and not by the name of Potrero, and that it is more than thirty years that he has known it under that name.

To the 7th interrogatory he said: That the tract of land spoken of extends from the left bank of the Rio Bravo towards the Arroyo Colorado, but he does not know whether it extends to that point, and he does not know why it is called Potrero.

To the 8th interrogatory he said: That he does not know who was the first discoverer of the said tract of land; that when he knew it Don Blas Maria de la Garza and his brothers-in-law, Don Pedro Prieto and Don José Gozeascochea, were already in possession of it.

To the 9th interrogatory he said: That he has learned by report that Don Salvador de la Garza and Don Narciso Cavazos had a suit for the land, but he does not know what was the result.

To the 10th interrogatory he said: That he knows nothing of the subject of the interrogatory, except that one of the heirs of Don Salvador was Don Blas Maria de la Garza, but he was not acquainted with the other two sisters, nor does he recollect their names.

To the 11th interrogatory he said: That he was personally acquainted with Don Blas Maria de la Garza, and that he was son of Don Salvador de la Garza, and that Don Blas married Doña Francisca Cavazos, and that he does not know that they have any child.

To the 12th interrogatory he said: That he does not know where Don Blas de la Garza died, but that he knows that he was respected and esteemed in this town.

To the 13th interrogatory he said: That he was personally ac-

quainted with Doña Francisca Cavazos; that she survived her husband quite a number of years, but he cannot state how many, and that he believes that she continued to live on the tract of land, and afterwards in the town of Matamoras when it was founded; that her ranche was in the place of Las Prietas.

To the 14th interrogatory he said: That he was personally acquainted with Doña Maria Ignacia Cavazos, and that she lived in this town before and after the death of Doña Francisca; that these two ladies were sisters, and that Doña Ignacia married Don Maximo Cavazos, who had as children Don Narciso Cavazos, Doña Bartola, Doña Gertudis, Doña Maria Josefa, and Don Maxximo Cavazos.

To the 15th interrogatory he said: That he has never known as possessors any but Don Blas Maria de la Garza and his brothers-in-law, Don Pedro Prieto and Don José Gozeascochea, by their wives, and now their heirs.

To the 16th interrogatory he said: That he knows nothing more than that what he has said is the truth. He declares that he is married, by occupation a stock-raiser, and of the Roman Catholic Apostolic religion, which he did not sign, not knowing how to do so. I have done so with my assisting witnesses, in the absence of a notary public. I certify.

MANUEL DE LA VIÑA.

Assisting witnesses:

CRISTOVAL LEAL.

MANUEL CAVAZOS G'RRRA.

In the same town, on the said day, month, and year, appeared Don Blas Maria Cavazos, likewise cited as a witness, and I administered to him in his proper person, which I certify I know, the oath in due form of law, by which he declared that he would state the truth as to all that he might know and should be asked; and being interrogated according to the interrogatories which were addressed to him, which were read to him, and being fully aware thereof, he answered:

To the 1st interrogatory: That he is personally acquainted with Don Rafael Garcia Cavazos, and with Doña Maria Josefa Cavazos, his wife, but he does not know the other persons to whom the interrogatories refers.

To the 21st interrogatory he said: That the copy of the will of Don Blas Maria de la Garza, marked *FF*, composed of ten legal leaves, is legally authorized by the signature of deponent, since it is his own signature, and that which he has always employed; that all that is written in the ten leaves aforesaid is a copy literally taken from the original will of the aforesaid deceased Don Blas Maria de la Garza; that when he authorized it in the year one thousand eight hundred and thirty-four he was first constitutional alcalde.

To the 23d interrogatory he said: That as he is ignorant of the origin, causes, and motives which have occasioned controversy between the plaintiffs and defendants, he can state nothing; that what he has thus far said is the truth, his deposition having been read to him, stating that he was fifty-two years old, a widower, by occupation a stock-raiser, of the Roman Catholic Apostolic faith, and a resi-

dent and native of this town, in virtue whereof he signs with me and my assisting witnesses. I certify.

MANUEL DE LA VIÑA.
BLAS M'A CAVAZOS.

Ass. witnesses:

CRISTOVAL LEAL.

MANUEL CAVAZOS GUERRA.

In the town of Reynosa, on the third day of the month of April, one thousand eight hundred and fifty, appeared before me, as one of the witnesses cited, Don Zipio Munguilla, and I administered to him, in his proper person, which I certify I know, the oath in due form of law, upon which he declared that he would state the truth as to all that he might know and should be asked; and being interrogated according to the tenor of the interrogatories addressed to him, he answered:

To the 1st interrogatory: That he knows Don Rafael Garcia Cavazos by sight, and knew his wife, Doña Maria Josefa Cavazos, when a child, and does not know the others mentioned.

To the second interrogatory he said: That he is seventy-two years of age, and that from his birth he has been a native and resident of this town of Reynosa, on the right bank of the Rio Bravo.

To the 3d interrogatory he said: That he was not acquainted with Don Salvador de la Garza.

To the 4th interrogatory he said: That he knows nothing of the subject of this interrogatory.

To the 5th interrogatory he said: That he does not know who was the wife of Don Salvador de la Garza, and, consequently, he does not know who were his children.

To the 6th interrogatory he said: That he is not acquainted with the Agostedero about which he is asked, named Potrero or Esperitu Santo.

To the 7th interrogatory he said: That he refers to what he has said in answer to the foregoing interrogatory.

To the 8th interrogatory he said: That he knows nothing of the subject of the interrogatory, as of the foregoing.

To the 9th interrogatory he said: That he is also ignorant of the answer to the interrogatory.

To the 10th interrogatory he said: That he is entirely ignorant of the subject of the interrogatory.

To the 11th interrogatory he said: That he was not acquainted with the persons about whom he is asked; that, on this account, he knows nothing of the subject of the interrogatory addressed to him.

To the 12th interrogatory he said: That he does not know where Don Blas Maria de la Garza died, and knows nothing of the subject of the interrogatory.

To the 13th interrogatory he said: That he was acquainted by sight with Doña Francisca Cavazos, but does not know how long she survived her husband, nor anything with respect to the remainder of the interrogatory.

To the 14th interrogatory he said: That he was acquainted with

Doña Maria Ignacio Cavazos, and that she lived in this town; but he does not know what relation she bore to Doña Francisco Cavazos; that Doña Ignacia was married to Don Maximo Cavazos, and they had the following children: Doña Maria Josefa Cavazos, Doña Juliana, Doña Gertudis, Doña Bartolo, Don Narciso, and Don Maximo Cavazos.

To the 23d interrogatory he said: That he is entirely ignorant of the subject of the interrogatory; that what he has stated is the truth, declaring that he is married, by occupation a stock-raiser, and of the Roman Catholic Apostolic religion, and this his deposition having been read to him, he declared it was the same he had given, which he did not sign, not knowing how to do so. I have done so, with my assisting witnesses, for want of a notary public. I certify: MANUEL DE LA VINA. Ass. wit., Christoval Leal; ass. wit., Manuel Cavazos G'rra.

In the town of Reynosa, on the third day of the month of April, one thousand eight hundred and fifty, appeared the priest of this town, Don Antonio de la Garza Rodriguez, and I administered to him, in his proper person, which I certify I know, the oath, in due form of law, and the aforesaid witness took it upon the Holy Bible, upon which he declared that he would state the truth as to what he might know and should be asked; and being interrogated, in conformity to the interrogatories addressed to him—

To the first interrogatory he said: That he is personally acquainted with D. Rafael Garcia Cavazos and his wife, Doña Maria Josefa Cavazos, and knows only by sight Doña Angela Safon de Tarneva, but does not know the rest of the persons included within the interrogatory.

To the twenty-second interrogatory he said: That the signature at the end of the certificate of the entry of the marriage of Don Rafael Garcia Cavazos to Doña Josefa Cavazos is his own, and the same that he has used in all the matters in which he has had occasion to employ it, as well ecclesiastical as those of private interest; that the contents of the copy of the entry are taken literally from the proper book in which it is entered.

To the twenty-third interrogatory he said: That he knows absolutely nothing of the subject of the interrogatory; that what he has said is the truth, his deposition having been read to him, stating that he was ninety years of age, signing with me and my assisting witnesses, for want of a notary public. MANUEL DE LA VINA, PRESBO. ANTONIO DE LA GARZA RODRIGUEZ. Ass. wit., Cristoval Leal; Ass. wit., Manuel Cavazos G'rra.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

I, James Love, clerk of the district court of the United States for the district of Texas, certify that the foregoing sixteen pages contain a true and perfect copy of document *E*, originally filed in the chancery case No. 41, Rafael Garcia Cavazos *et als.* vs. Charles Stillman *et als.*,

which original is withdrawn by leave of the court and this copy filed in its stead.

In testimony whereof, I hereunto set my hand and affix the seal of said court, at Galveston, this fifth day of August, in the year of our Lord one thousand eight hundred and fifty-four.

[L. S.]

JAMES LOVE, *Clerk*.

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS *et als.* }

vs.

SIMON MUSSINA. }

RAFAEL GARCIA CAVAZOS and others }

vs.

CHARLES STILLMAN and others. }

Translation of the Testament of D. Blas Maria de la Garza, filed in the list of the above entitled causes, and to be offered in evidence in both, on the part of the plaintiffs.

In the name of Omnipotent God, and of our lady the Virgin Mary, conceived without original sin from the first moment of her purest existence, Amen: Be it known and notorious to all, that I, Don Blas Maria de la Garza, a native of the town of Camargo, and ensign of the company of militia [by the commission of his Majesty, whom may God preserve,] for the said town, in the colony of New Santander, and resident of this frontier, in the jurisdiction of the town of Reynosa, legitimate son of Don José Salvador de la Garza, and of Doña Gertudis de la Garza Falcon, now deceased, being unwell and confined to my bed with a sickness which it has pleased God to send me, being in my perfect natural judgment and understanding, believing as I do believe in the mystery of the most Holy Trinity, Father, Son, and Holy Ghost, three distinct persons, and one only God, truly omnipotent: I likewise believe in the incarnation of the Divine Word, in the purest womb of Mary, always a Virgin, and in all the other mysteries which our Mother, the Holy Roman Catholic Apostolic Church, holds, believes, and confesses, in the faith and belief whereof I have lived, and declare that I will live a Christian of the Holy Roman Catholic Apostolic Church, by the inestimable price of the purest blood of our Lord Jesus Christ, fearing as I do that death, which is the common lot of all created beings, may come upon me unawares, and desiring to save my soul, choose and name as my patrons and advocates, and intercessors before the Tribunal of God, where I am to appear to give an account of my life, the Most Holy Virgin, the glorious patriarch St. Joseph, the Archangel St. Michael, Saint of my name and devotion, and all the Saints of the court of Heaven, that when the hour of my death shall come, and my soul shall leave my body, they may transfer it from this world to the safe Harbor of Salvation, where I hope they will intercede for it, for it is

my desire and prayer that my soul shall be saved: I ordain and make this my will in the form and manner following:

1o first: I commend my soul to God, our Lord, who created it, and redeemed it with the inestimable price of his blood, and I beseech his Majesty to raise it to His glory, for which it was created, and my body I commit to the earth, since it was formed from it.

2o item: I order my body to be laid out in the grave clothes prescribed by our Seraphic Father St. Francis, and that my burial be of the first class, though humble and unostentatious.

3o item: I order that my body be buried in the church of this frontier, in which the pains of death seized me, and near the first step of the altar.

4o item: I declare that I have been married according to the canon of our Mother, the Holy Church, to Doña Francisca Cavazos, by which marriage we had no issue during the entire continuance of our marriage for ten years, and having no forced heir out of it: so I declare, that it may be known.

5o item: I declare that when I contracted the aforesaid marriage with my wife, Da. Francisca Cavazos, I introduced nothing therein on account of my paternal inheritance, being included in the estate of my mother, together with the portion that belonged to her, and at her death, which was a little before or after the year of the death of my father, this property, that is to say, my paternal inheritance, together with that belonging to her, was still held jointly in consequence of the general power which she had conferred on me, but she having died, as has been stated, a long time ago, I have never been able to obtain from her executors the settlement of their accounts: so I declare it, that it may be known.

6o item: That of all the aforesaid property belonging to the succession, in which was included that coming to me on my father's side, I have received, since the death of my mother, and up to this date, two chests, a mortar, a reliquary of wax, a gold Agnes, and I have received nothing else, as I declare for proof thereof.

7o item: I declare that when I contracted the above stated marriage with my wife, Dona Francisca Cavazos, her guardian delivered to me forty-five mares, six fillies two years old, two jackasses, one gentle horse, three geldings, six colts two years old, fifteen foals and fillies branded, two stallions, ten cows, and four bulls, which I declare, that it may be known.

8o item: I declare as my property six droves of mares, five with a jack, and one with a horse, somewhat inferior, and all the others which are found running wild with my branded mark; so I declare, that it may be known.

9o item: I declare as my property fourteen gentle horses and all the others of my brand, together with another little gray horse of the brand of Don Pablo Villareal, which was presented to my wife, and has not my brand, which I declare, that it may be known.

10 item: I declare as my property several mules two years old, not branded, which for want of assistance I have not been able to brand: so I declare it, that it may be known.

11o item: I declare as my property thirteen or fourteen young mules,

a year old, ear marked, but not branded, which I have not branded for the same reason as above stated: so I declare it, that it may be known.

12o item: I declare as my property three she mules, two wild and one broken: so I declare it, that it may be known.

13 item: I declare as my property four jackasses, since though the droves with jacks are five in number, one jackass supplies two, and each one of the others has its own, as I declare, that it may be known.

14 item: I declare as my property four jennies and the others with my brand and mark: I declare it, that it may be known.

15 item: I declare that I have in the possession of Francisco Peña four hundred head of goats and sheep, of all classes and ages, with the agreement to pay him three dollars a month for them, in company with his own, which for this consideration may graze in my estate without paying any rent, that it is now about two years since he has had them in his possession, and I so declare it, that it may appear.

16o item: I declare that I have some thirty or forty other head of small stock of all kinds and ages at my residence: so I declare it, that it may appear.

17o item: I declare as my property three yokes of working oxen, five cows from Chichihuita, since tho' these are six, I have destined one for my niece, Maria Josefa Cavazos: so I declare it, that it may appear.

18o item: I declare as my property all the stock of my brand and mark lost and running wild, that it may be added to the total amount of my property, as likewise the part of the wild cattle belonging to me, and my part of the estate of Esperitu Santo, in which there is another stock: so I declare it, that it may be known.

19o item: I declare as my property the lands of Sombretillo, since, although their title deeds are among the papers of the succession, they have been adjudged to me by the executors with the condition that I pay four hundred dollars to the various creditors of the estate, as I have in fact done, which I declare, that it may be known.

20o item: That besides the four hundred dollars above stated, I have paid a hundred dollars besides to the other creditors of the estate, and this sum has been paid to me by the aforesaid executors, together with a painting of St. Joseph, which is in the possession of my sister, D'a Xaviera de la Garza, and other small articles, by which I am satisfied in the total amount of five hundred dollars, coming to me from the personal effects of the estate: I declare it, so that it may be known.

21o item: I declare as my property a house in the lands that the aforesaid executors have assigned to me as my inheritance, and in it one curved adze, a strait, a plane, a pickaxe, three axes, one of which is in the possession of the servant boy of Don Crisostomo, and the other in the possession of Pedro de la Garza, three crowbars.

22o item: I declare as my property all my wearing apparel at my residence: I so declare it, that it may appear.

23o item: I declare as my property a horse-saddle and bridle, with a leather jacket, shield, lance, musket, a pistol that is in the possession of ensign Juajosa, and a catridge-box: so I declare it.

24 item : I declare as my property a mare with a mule colt two years old, with the brand of Don Felipe, in a drove of jennies belonging to D. Pedro Prieto, and a young ear-clipped mule belonging to those that were branded last year, all colts of said mare : so I declare it.

25o item : I declare as my property a wild colt of a horse of D. Pedro Prieto, a cinnamon-colored mare, with a bay mule colt of the brand of D. Juan de la Reiniga, which I have not delivered, nor that above stated ; Don Domingo Guerra, and lately his stock-keeper, saw them sucking the mares : I likewise so declare it, that it may appear.

26 item : I declare that among the drove of pack mules belonging to the widow's, there is a mule with the brand of Don Francisco Cordantes, which Victoriano Ramires sold him, marked on the cheek with the brand of D. Antonio Ximenes, and this is my own property, and Francisco Treviño and Dionisio Perez know it to be such : I declare it for proof thereof.

27o item : In a drove belonging to D. Pedro Prieto there is a chestnut mare, with a mule colt which is going upon two years, and my brother D. Pedro owes me a female mule from the same mare, two years old going on to three : I so declare it, that it may appear.

28o item : In a drove of the aforesaid D. Pedro, there is a bay mare of the brand of D. Joaquin Gonzales, of Pilon, which is also mine : I so declare it, that it may be known.

29o item : I have in the possession of Reyes two mares, one gentle and the other wild, and I owe him five dollars in payment for a drove which he is to deliver me accustomed to a particular range out of wild horses, that I had given him for this purpose, and they have had eleven foals : so I declare it, that it may be known.

30 item : In the possession of Don Matias Ramires are the rent that has become due since he took a lease from me to this year ; he is still owing me this rent ; the lease will show the amount : so I declare it, that it may be known.

31o item : I declare that Don Matias Ramires, besides what is stated in the above clause, owes me a mare : so I declare, that it may be known.

32o item : Don Juan de la Garza Montemayor owes me rent for the lands on which he pastures his small stock, which is not less than three thousand head ; he will pay me as rent what as a Christian he will say is right : so I declare it, that it may be known.

33o item : Don Domingo Guerra owes me rent for six or seven years that he has lived on my land without a written lease, which shall be recovered from him on the usual terms : so I declare it, that it may be known.

34o item : I declare that Don Domingo Guerra owes me several beeves that he has killed on my estate, and a stallion that has taken up with a drove of his : so I declare it, that it may be known.

35o item : Don Crisostomo owes me what he may be *may be* willing to give voluntarily for rent for three years that he has kept his stock on my land, and twelve dollars that he was to pay me by Don Margil Cano : so I declare it, that it may be known.

36 item : The chief muleteer of Don José Antonio Cozenios owes me four beeves that are worth sixteen dollars, and three pack saddles

at seven dollars, together twenty-one dollars: so I declare it, that it may be known.

37 item: Nepomuceno Cisernos owes me five beeves, at four dollars, together twenty dollars, as he himself states: so I declare it, that it may be known.

38o item: The Balli's, that is, with the exception of the captain, who has paid me, owe me for the cattle that they have taken according to the statement of their managers and stock drivers, and placing it to their credit on a promissory note, which the first holds, the rest shall be collected: so I declare, that it may be known.

39o item: A servant, named Julian Guerra, ran off, owing me, on the adjustment of his account, *owing me on the adjustment of his account*, ninety-two dollars: so I declare, that it may be known.

40: And that he may pay them to Doña Rosa. An old salvidero from Cadarieta owes me a pair of mules which I lent him, valued at fourteen dollars: so I declare, that it may be known.

41o item: Juan Perez forty-seven dollars, according to the account book: so I declare, that it may be known.

42o item: Juan Mayo, of Cadarieta, owes a pair of mules, valued at fourteen dollars, and a gentle mare, used to work in harness, valued at six dollars: so I declare it, that it may be known.

43a item: The deceased Francisco Quiroa owes me seven mares: so I declare it, for proof thereof.

44a item: Bernada Cuno seventeen mares that I lent him on his promise to pay: so I declare it, that it may be known.

45a item: Also, there is due me what appears on a list that Don Antonio Gutierrez has presented to me, from the persons stated in it, and the sum due from each shall be collected, as it has been given to them on my account: so I declare it, that it may be known.

46o item: Don José Antonio Ramires owes me a jackass and a grown mule: so I declare it, that it may be known.

47o item: The negro Matias Gonzales owes me what it may appear I paid for him to the bachelor Don Nicolas Balli: so I declare it, that it may be known.

48o item: Mariano Recio owes me a riding horse, at ten dollars: so I declare it, that it may be known.

49o item: Don Miguel Barrera, of Serralvo, owes me a riding horse, at ten dollars: so I declare it, that it may be known.

50o item: A silversmith of Monterey, named Juan Antonio Gomez, owes me five mares and five ounces of silver, and a prancing horse, at five dollars: I so declare it, that it may be known.

51o item: I owe six hundred dollars to the revenues of San José de Camargo, and I am also owing as interest upon this ninety-one dollars: so I declare it, that it may be known.

52o item: I owe to Don Juan de la Reineyga what shall appear by his account books: so I declare it, that it may be known. There must also be credited what D. Culisto Agala, his collecting agent, may appear to have received: so I declare it, that it may be known.

53 item: To Don Juan de la Garza Montemayor & Co. what may appear on their books of accounts, deducting the payments that I have made: so I declare it, that it may be known.

54o item: I owe Don Francisco Mucherro thirty dollars, or thereabouts: so I declare it, that it may be known.

55 item: I owe Don José Antonio de Leon thirty dollars, a little more or less.

56o item: The book-keeper of Don Manuel de la Torre, fifteen dollars.

57o item: I owe Lieutenant Don Francisco Balli seven dollars.

58o item: I owe Don Miguel Chapo three dollars: so I declare, that it may be known.

59o item: Benito Besurlez, three reals; Don Manuel de la Fuente, I mean Don Andres de la Fuente, twenty-four dollars; Francisco Salinas, three dollars; Don Felipe, forty dollars, on a promissory note of mine that he holds; Don Pedro Ignacia Garcia, forty-three dollars: so I declare it, that it may be known.

60o item: I owe my sister, Doña Xaviera de la Garza, what it may appear to amount to in my schedule of partition: so I declare it, that it may be known.

61o item: I owe Don Cayelano Medrano twenty-seven dollars, four reals and a mule two years old that I gave him for the Holy Sacrament.

62 item: I declare that I owe to St. Joseph two voluntary masses: I declare it, that it may be known.

63o item: I declare that, in the low grounds belonging to the Cuntu family, there is with my stock a black mare of the brand of D. Matias Ramires, together with a black mule which has strayed off, and a filly two years old without my brand, all of which I have bought: I declare it, so that it may be known.

65 item: I owe the aforesaid Don Domingo Guerra a mule colt, grown, and another a year old, a pair of new saddle cushions, some arms, and a pair of boots: so I declare it, that it may be known.

56 item: Augustin Lopez owes me a drove of twenty-five mares and a stallion, with besides twenty-five dollars that I paid for him: so I declare it, that it may be known.

67 item: I declare that there is due to me from the estate of the deceased, Don Marcello Ramirez, five she mules and a mare, all grown, which I lent him, which is well known to Antonio de la Garza, alias Mariscal: which I declare, that it may be known.

68. Antonio Ouda owes me two draught horses: so I declare it, that it may be known.

69 item: I order that, after the debts, funeral, burial, and forced legacies (*mandas forozas*) have been paid, that the rest of my property be applied in favor of my wife, Da. Francisca Cavazos, whom I appoint, and whom it is my will should be my heir, to have, possess, and enjoy all that belongs to me, except the fifth, which it is my will to leave, for her benefit, to my niece, Maria Josefa Cavazos, whom I have brought up from a child: all of which I declare, that it may be known.

70 item: I declare that, for the fulfilment of this my testament, that it is my last will to appoint executors to take possession of my property, and I appoint as such, in the first place, the Bachelor Don Nicolas Balli; in the second place, the aforesaid Doña Francisca Cavazos, my wife; and in the third place, Don Blas de la Garza Falcon,

whom I charge as such my executors and trustees, to keep, comply with, and execute my said testament, according and in the manner prescribed in it, by its clauses, within the restrictions of the law, and for all the aforestated pertinent and proper purposes, I confer upon them all my power and authority, as far as may be requisite and necessary ; and for its greater validity and binding force, I have asked the commandant of this department to interpose his authority and judicial decree so far as may be necessary : And I, the aforesaid commandant of this frontier, Don Vincente Lopez de Errera, by the lawful appointment of the commandant of the militia, Don José Francisca Balli, chief justice of the town of Reynosa and its district, complying with the obligations of my duty, caused three respectable citizens to be present, for the greater validity of this will, as instrumental witnesses, they being Don Cayetano Giron, D. Calisto Ayaela, and Don Blas de la Garza Falcon, all of this neighborhood, who have signed with me, the attesting officer, and my assisting witnesses, with whom I act as examining judge for want of any notary, there being none within the limit which the law prescribes, in this new settlement of our Lady of Refugio, on the fourth day of the month of May, one thousand eight hundred and two. I certify : VINCENTE LOPEZ DE HERRERA, BLAS MARIA DE LA GARZA, JOSE CAYETANO GIRON, CALISTO DE HAYADA, BLAS MARIA FALCON. Assisting witness, Cayetano Medrano. Assisting witness, José Vicente Lopez. On the said day, month, and year, I, the aforesaid chief justice above stated, for the entry of this will on official paper, for the want of a notary, there being none in all this country, have affixed this certificate as proof thereof, which I certify, so far as I can and ought and as the law permits me, reserving the rights of the royal treasury, that without prejudice to it this sheet may have the same effect as that of a corresponding stamp, (*como el de pente*,) since the urgency of the danger of the said sickness of the grantor does not permit longer delay. All which I certify and confirm, signing with my assisting witnesses, as an examining tribunal, as has been said. VICENTE LOPEZ DE HERRERA. Assisting witness, José Vicente Lopez. Assisting witness, Cayetano Medrano.

This corresponds with the will which exists in the public archives of this town under my charge. It is faithfully copied, corrected, and compared, and the citizens, Antonio Dominguez, George Cavazos, and Felix de Leon were instrumental witnesses in seeing it copied. It was copied upon the petition of Don Blas Maria Cavazos, on account of the interested parties. It is comprised in seven stamped leaves, the first and last of the second seals, in conformity with the law : so I certify and sign, with my assisting witnesses, for want of a notary, there being none, according to the law. I certify this the eighth of February, eighteen hundred and thirty-three. In testimony of the truth. J. ANTONIO LEAL DE LEON. Assisting witness, Manuel de la Vina. Assisting witness, Rafael Parientes.

I certify that the foregoing is a correct translation of the original, made under an order of the court.

WILLIAM G. HALE.

13.

Copy of an entry in the parish register at Reynosa.—Proved by Rodriguez.

N. B. The original entry of the marriage of Rafael Garcia Cavazos was withdrawn, by leave of the court, and the clerk cannot find that any copy has been filed in its stead.

JAMES LOVE, *Clerk.*

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
SIMON MUSSINA. }

Translation of the copy of the entry of the parish registers of the town of Reynosa.

I, the Priest Antonio de la Garza Rodriguez, curate ad interim of this town and its jurisdiction, certify, so far as I am and the law allows, that there is among the books belonging to the archives of this curacy, one bound in red leather of the entries of marriages, and, on the first page of the forty-first leaf, there is an entry as follows:

In this parish of our Lady of Guadalupe de Reynosa, on the second of October, one thousand eight hundred and eighteen, I, Don Juan J. de Cardenas, curate and ecclesiastical judge of this town, married, *in facie ecclesiae*, at the proper time, D. Rafael Garcia, a native of the town of San Fernando, and domesticated for a year in these parts, in this town of Reynosa, and legitimate son of D. Juan J. Garcia and Dona Maria Rosalia de Leon, to Dona Maria Josefa Cavazos, of this vicinity, and legitimate daughter of D. Maximo Cavazos and Dona Maria Ignacia Cavazos; whose intentions were announced in this parish under my charge on three festive days *inter misserum solemnita*, according to the provisions of the council, which was done on the 21st, 28th, and 29th days of February, feast days, the 17th and 18th Sundays after Pentecost, and the day of St. Michael the Archangel, and no impediment, even after the time which the canonical law prescribes had passed, were their sponsors. Which entry is faithfully and legally copied, and agrees with the original, to which I refer. Curacy of Reynosa, and November 30, 1849.

ANTONIO DE LA GARZA RODRIGUEZ.

I certify that the foregoing is a correct translation of the original, made in pursuance to an order of the court.

(WILLIAM G. HALE.)

This translation was read on the hearing by the complainants.

JAMES LOVE, *Clerk.*

14.

Depositions from Matamoras of Don Antonio Fernandez and Don Jesus de Abrigo.

The written depositions were offered in evidence by the complainants at the hearing of this cause, and objected to defendants as incompetent evidence. The same special objections were made to their admissibility as were made to and endorsed on the depositions of Cavazos, Cardenas, and Molano, taken at Victoria, and also they were objected to because the 15th interrogatory was not answered. All which objections were overruled by the court, and the said depositions were read in evidence by complainants.

JAMES LOVE, *Clerk.*

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

Translation of the proceedings before the court of the first instance of the city of Matamoras, in taking the depositions of D. Antonio Fernandez and D. Jesus de Abrigo, on the part of the complainants in the above entitled cause under the accompanying letter rogatory.

On the outside cover.

No. 4.

MATAMORAS, April 24, 1850.

Proceedings had in the case which Don Rafael Garcia Cavazos, Doña Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina are prosecuting in the court of the district of Texas, against Charles Stillman and others.

Tribunal of the First Instance with, assisting witnesses.

There is no paper of the corresponding stamp in the office of the Government.

MATAMORAS, April 24, 1850.

The letter rogatory, presented by William G. Hale, charged to ask for the fulfilment of what it seeks having been exhibited. Let whatever the judge making the application, by whom the letter has been issued, requests in it be fully complied with by this court: to this end will be examined all the witnesses presented by the same G. Hale,

and which may be included in the interrogatories annexed to the said letter rogatory. I, the alcalde, first judge of first instance of the department of the north of Tamaulipas, have thus ordered and signed, acting with assisting witnesses on account of the occupation of the notary public. I certify.

PEDRO JOSÉ DE LA GARZA.

Ass'a: LEONARDO ESPINOSA.
CRISTOVAL LEAL.

City of Matamoras, on the twenty-fourth day of the month of April of one thousand eight hundred and fifty, there being present in court Don Antonio Fernandez, one of the witnesses included in the interrogatories mentioned in the preceding act, I administered to him the oath which he took in the form prescribed by law, under which he declared he would tell the truth as to what he might know and should be asked; and being interrogated according to the tenor of the questions contained in the said interrogatories, he answered:

To the 1st. That he is personally acquainted with the plaintiffs, and of the defendants he only knows Charles Stillman, Doña Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Doña Feliciana Gozeascochea de Tigerina, and Don José Manuel Prieto; and he answers

To the 2d. That he knows the Potrero or Agostadero, named Esperitu Santo, and this is on the left bank of the Rio Grande, in front of the aforementioned city. That, as soon as he obtained the age of reason, he learned by general reputation that the aforesaid tract had been adjudged from time immemorial to Don José Salvador de la Garza, and that this individual was its first owner; and he answers

To the 3d. That he knows the place called San Juan del Retiro, and it is situated within the limits of the Potrero called Esperitu Santo. That he has not heard it said that in time immemorial any buildings were erected on them. Then, besides, the deponent knows in this place a badly built hacal, which must have been of more recent construction, and he has heard it said that Don Manuel Prieto built it. That he does not know by tradition that Don José Salvador de la Garza made any use of the said place, but it must have always been reputed his, because it is in the boundaries of the Agostadero of Esperitu Santo; and he answers

To the 4th. That he knew that since the death of D. José Salvador de la Garza, Don Blas Maria de la Garza, Doña Javiera de la Garza, wife of Don José Gozeascochea, and Don Pedro Prieto succeeded in the possession of the tract of Esperitu Santo in different points, which persons said deponent knew in the possession of the Agostadero; and he answers

To the 5th. That of the persons mentioned in this interrogatory the following have held, and actually hold, possession of the said tract and enjoy it as owners: Don Rafael Garcia Cavazos and his wife, Doña Josefa Cavazos, Doña Estafana Gozeascochea de Cortina, Doña Feliciana Gozeascochea de Tigerina, and Don Manuel Prieto; that Doña Maria de los Angeles Garcia de Safen and Tarneva, and Don Ramon Safen, the deponent knows, had property on the said tract as owners; but that at this time he is not aware that they have any; that he

knows that all of these persons had on the said tract a great number of stock of the larger and smaller sort, but at present he believes they have very few, because most of them have been lost; that he likewise knows that most of the aforementioned persons built good ranchos composed of hacals and corrales (cattle-pens) on the aforesaid agostadero; and answered

To the 6th. That Doña Estafana Gozeascochea de Cortina has her rancho a little above Villa Nueva, on the tract of Potrero de Esperitu Santo, and has lived on it for a long ; that the said rancho has never been owned by any but her; and he answered

To the 7th. That the ranchos he knows to be leased out by the heirs of Don Blas Maria de la Garza, on the tract of Espiritu Santo, are Santa Rosalia, El Estero, Las Prietos, El Ramireno; and he answered

To the 10th. That he knows that all the persons mentioned in the fifth interrogatory claim to have property in the tract of Potrero del Esperitu Santo, and that this claim is public and notorious, and is known by the greater part of the citizens of Matamoras and its vicinity; and he answers

To the 11th. That the deponent knows that Don José Antonio Margil Prieto sold to Don Ramon Safen the tract of land of which he was owner in the Potrero del Esperitu Santo, but he does not know whether he sold the whole or only a part of what belonged to him, the deponent being ignorant also before whom was passed the bill of sale, as well as the year in which it was made; and he answered

To the 12th. That Don Ramon Safen married Doña Maria de los Angeles Garcia, but the deponent does not remember the year in which this marriage took place; that the only child of Don Ramon Safen with which he is acquainted is Don Antonio of the same name, and if he had any others the deponent is ignorant of the fact; and he answered

To the 13th. That, as the deponent cannot read, he is unable to say if the paper exhibited to him be a letter addressed by Don Enrique Villareal to Don Rafael Garcia Cavazos, and for the same reason cannot state if the writing and signature affixed to it be those of the aforesaid Villareal; and he answered

To the 14th. That the aforesaid Don Enrique Villareal is not alive; he died about four years since, more or less; and he answered

To the 15th, and last. That he knows of no more which would be a benefit to either of the parties, excepting that what he has stated is true under his oath. That he is a native of the city of Guerrero and citizen of this one, married, a farmer, fifty-nine years of age. His deposition was read to him, and he said it was faithfully written, not signing, because he said he knew not how. I, the judge, signed, with my assisting witnesses, on account of the occupation of the notary public. I certify.

Ass. wit.
LEONARDO ESPINOSA.

DE LA GARZA.
Ass. wit.
CRISTOVAL LEAL.

In the city of Matamoras, on the twenty-seventh day of the month of April of the said year, present in court, Don Jesus de Abrigo, one

of the witnesses included in the interrogatories under which this testimony is being taken, I administered to him the oath, which he took in the form prescribed by law, under which he declared that he would tell the truth as to what he knew and might be asked; and being interrogated according to the tenor of the questions contained in the said interrogatories, he answered

To the 1st. That he is personally acquainted with the complainants, and that of the defendants he only knows Doña Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, and Doña Feliciana Gozeascochea de Tigerina, and Don José Manuel Prieto; and he answered

To the 2d. That he knows the Potrero or Agostadero named Esperitu Santo, and that he knows that this tract is situated on the left bank of the Rio Grande; that he did not know who was the first owner or grantee, and the only thing that deponent knows was that Dona Francisco Cavazos was in possession of it as a lawful owner since deponent has known the tract, of which fact, that is, of the Señora Cavazos being the owner of the said Agostadero, he is sure, because the deponent, as her lessee, occupied with his property in the place Del Sans, within the boundaries of the aforesaid Agostadero; and he answered

To the 3d. That he knows the place called San Juan del Retiro, to which the interrogatory refers, and that it is within the limits of the tract of Esperitu Santo, but that he does not know, neither has he heard that buildings were erected on it, nor by whom, being also ignorant what connexion Don José Salvador de la Garza had with the tract aforesaid; and he answered

To the 4th. That he is ignorant of the persons who have had possession of the aforesaid tract since the death of Don José Salvador de la Garza; but the deponent has already stated that the first person he knew in the possession of the said Agostadero was Doña Francisco Cavazos; and he answered:

To the 5th. That the persons mentioned in this interrogatory deponent knows have had possession of the said Agostadero, and that on it they raised stock, consisting in horses and cattle; and that deponent recognized the said persons as the owners of the Agostadero; that at present he does not know if all these persons are still in the occupancy of the said tract, with their property and settlements, with the exception of Doña Estafana Gozeascochea, and Doña Feliciana, of the same surname, whom he knows have and possess their Ranchos on the said Agostadero; that, as regards the houses that have been built on the aforesaid Agostadero by the persons mentioned in the interrogatory, the deponent can give no satisfactory account, because he is not acquainted with the greater number of them; and he answered

To the 6th. That Doña Estafana Gozeascochea has her rancho in the tract of Esperitu Santo, and it is situated on the place which the deceased Don Felix Villareal inhabited; that he cannot state what time the said Señora has lived in this place, but he knows that she has been on it a long while; and he answered

To the 7th. That he knows many ranchos situated on the said tract, and inhabited by divers persons; but he knows not under what right

they hold possession, and much less can he give the names of such ranchos; and he answered

To the 10th. That the deponent has considered the persons to whom this interrogatory refers as the owners of the aforesaid tract; but he does not know if they now claim to be owners of it, because deponent has not spoken to any of them; and he answered

To the 11th. That he is entirely ignorant of the subject of this interrogatory; and he answered

To the 12th. That deponent knows that Don Ramon Safen married Dona Maria de los Angeles Garcia, but he does not know the year this marriage took place; that deponent knew that the said Safen and his wife had a family, but he was not acquainted with it, and for the same reason did not know which of his sons were living at the time of his death; and he answered

To the 13th. That the letter which has been exhibited to him in this proceeding, addressed by Don Enrique Villareal to Don Rafael Garcia Cavazos, he cannot state with certainty to be in the handwriting of Señor Villareal; but that the signature seen at the end of it, from the knowledge deponent has of it, he can do no less than characterize it as the same which the said Don Enrique Villareal used, and was accustomed to use; and he answered

To the 14th. That the said Don Enrique Villareal is not living, and that he has been dead about four years, more or less; and he answered

To the 15th, and last. That he knows no more which might be of benefit or advantage to either party, neither has he anything to add or to retrench from these depositions; and he answered that his statement is true, that he is a native of Monterey and a citizen of this city, married, a farmer, and fifty-eight years of age; his deposition was read to him, and he said it was faithfully written, and signed with me and my assisting witnesses, as has been said. I certify.

DE LA GARZA.
JESUS DE ABRIGO.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
CRISTONAL LEAL.

MATAMORAS, *May 3, 1850.*

The licentiate, William G. Hale, having verbally asked that these proceedings in their present state should be returned to him in order to remit them to the court making the application, in virtue thereof, let them be delivered to him in the original and under their respective envelopes. I, the first constitutional alcalde of this city, judge of the first instance of the department of the north of Tamaulipas, have so ordered and signed, acting with assisting witnesses for the reason stated. I certify.

DE LA GARZA.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
CRISTOVAL LEAL.

On the outside cover.

Suit of Don Rafael Garcia Cavazos and others against Charles Stillman and others.

To the district court of Texas, one of the United States of North America.

From the court of the first instance of the department of the north of Tamaulipas, in Matamoras.

I certify that the foregoing is a correct translation of the original, made in compliance with an order of the court.

WILLIAM G. HALE.

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

*Translation of the document marked V.**On the back.*

To Sen. D. RAFAEL GARCIA CAVAZOS,
Matamoras.

Inside.

Sen. D. RAFAEL GARCIA CAVAZOS,

P. Mig'l Paso Viejo, April 14, 1836.

MY DEAR SIR: I have been unable to find the receipts for the rents which I have paid to Doña Maria Tigerina, and what I do remember, however, and am sure of, is, that I paid for three consecutive years, at the rate of \$38 per annum; this is the most correct information I can give you in relation to the said matter, anything further would be mere conjecture, as I could not speak with certainty as I do of this. This is all I can say on this subject for your satisfaction.

Your affectionate friend and obedient servant, Q. B. S. M.

ENRIQUE VILLAREAL.

I certify that the foregoing is a correct translation of the original, made under the order of the court.

WILLIAM G. HALE.

16.

Depositions from Matamoras of Don Joaquin Arquelles.

The within deposition was offered in evidence by the complainants at the hearing of this cause and objected to by the defendants as incompetent evidence. The same special objections were made to its admissibility, as were made to and endorsed on the depositions of Carceres, Cardenas, and Molano; said objections overruled by the court, and the deposition read in evidence by the complainants.

JAMES LOVE, *Clerk.*

The same objections were made to the reading of the within deposition as were made to the depositions contained in the package marked 8, and overruled by the court, and the deposition was read.

JAMES LOVE, *Clerk.*

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others.

Translation of the proceedings before the court of the first instance of the city of Matamoras in taking the deposition of D. Joaquin Arguelles on the part of the complainants in the above entitled cause, under the accompanying letters rogatory.

On the outside cover.

Numb. 5.

Matamoras, May 1, 1850.—Proceedings had in the suit which Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, are prosecuting against Charles Stillman and others, in the court of the district of Texas.

Court of the first instance, with assisting witnesses.

There is no paper of the corresponding stamp in the office of the government.

Matamoras, May 1, 1850.—Taking into consideration the letter rogatory presented by William G. Hale, authorized to desire its execution, let everything required of it by the judge by whom it has been issued be complied with by this court, for which purpose all the witnesses presented by the said Hale, whose names are contained in the set of interrogatories attached to the said letter shall be examined.

I, the citizen Pedro José de la Garza, first constitutional alcalde of this city, and judge of the first instance of the department of the north, of Tamaulipas, have thus ordered and signed, acting with assisting witnesses, on account of the occupation of the notary public. I certify.

PEDRO J. DE LA GARZA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

CRISTOVAL LEAL.

In the city of Matamoras, on the first of May, one thousand eight hundred and fifty, the notary public, D. Joaquin Arguelles, one of the witnesses mentioned in the foregoing order, being present in this court, I administered to him the oath, which he took in the form prescribed by the law, upon which he declared he would state the truth, as to what he might know and should be asked; and being so asked, in conformity to the said interrogatories, he answered:

To the 1st. That he is acquainted with the parties litigant, whose names are written in the caption of the said interrogatories, with the exception of Jacob Mussina and Don Ricardo Patrick.

To the 2d. That upon an actual examination of the document, marked with a letter *A*, he sees that it is subscribed by the notary D. Antonio Escevedo, the handwriting both of the signature and subscription is his, and he is perfectly well acquainted with it; that he has been informed as to this individual that he died in the port of Tampico, in the State of Tamaulipas, but that he cannot answer for the accuracy of this information; that he was acquainted with his handwriting and signature, and on this account has said that it was that which he affixed at the end of the document as notary public.

To the 3d. That the place called in the document "esta congregacion de Nuestra Señora del Refugio" is now and is called the city and port of Matamoras; that the aforesaid notary, D. Antonio Escevedo, was such when he signed it, and discharged the duties of his office with the approval of the government, according to the laws of the country by virtue whereof he was recognized as such public officer, and gave to his acts the faith and credit which all those of one *one* generally recognized as notary public deserve.

To the 4th. That upon an examination of the document marked with the letter *B*, and which is the partition referred to in the interrogatory, he finds it signed and sealed by D. Pedro Pablo Palaez, with whom he was very well acquainted, in consequence of having acted with him in his office as notary public; that he does not know whether he is living or dead, because he has heard no news of him since he went from Mexico to Mazatlan, but that he is certain that the signature and seal at the end of the said copy is his own, and the same which he used and was accustomed to employ, and that the said Palais had the title of bachelor (bachiller) as well as that of notary, and used it in his signature.

To the 5th. That the said D. Pedro Pablo Palais had the office of notary public in this city when he signed the said copy, in conformity to the laws of the State and the republic, and was also, in conformity with them, generally recognized as notary public.

To the 6th. That deponent having under his eyes the official cita-

tion signed by D. Juan José de la Garza, he says he perfectly well knows this individual and his handwriting and signature, and consequently he is certain that it is his that is signed at the end of the said citation, dated fifteenth of July, one thousand eight hundred and thirty-five; that at the time he was regidor of the municipality, whose duty it was, by the laws of the country, to take the places of the alcaldes when sick, on leave, or disqualified from other similar causes.

To the 7th. That having under his eyes the document marked with the letter *D*, he declares that he is perfectly well acquainted with the handwriting and signature of D. Juan Prado, who subscribes it, and that on this account he is certain that the signature he has affixed in the principal place in the order, *i. e.*, to the left hand, is his own, and written with his own hand; that on the right being that of the Notary Public Pelais, who by this signature authorized it, [*i. e.*, gave it sanction or validity.]

To the 8th. That there neither occurs nor exists in Mexico a fixed custom or rule for writing all the names by which an individual may be designated, to distinguish him from another of the same name and surname, as is usually done in this city by some persons adding one name and some another, (or, more definitely, the women taking that of Maria, and the men that of José,) but this is in no manner considered as a general rule to prevent distinct persons from being referred to in writing the same names, but the same effect is produced (employing the same example given in the interrogatory) sometimes by Maria Josefa Cavazos, and at other times Josefa Cavazos, either mode being used in writing.

To the 9th, and last. That he knows no other matter which can concern the parties, nor of importance as to what he has said, what he has stated being the truth, upon his oath; that he is a resident of this city, married, and thirty-five years of age, and has signed with me and my assisting witnesses. I certify.

DE LA GARZA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

CRISTOVAL LEAL.

Thereafter, the same witness being interrogated upon the cross-interrogatories of the opposing party, he said:

To the first. That D. Pedro Pablo Palaez was a notary public, acting in this capacity in this city since it has been a town; and to prove this the parties whom the interrogatories styles plaintiffs can, without restricting himself to ordinary means, have recourse to this ayuntamiento, where certainly a minute of his diploma of notary public must be, because of the duty of these officers to present it to the corporation of the city in which they are about to exercise their functions.

To the 2d. That Don Juan Prado was second alcalde in this city in the year 1836; and that the legal and appropriate means for the complainants to prove it, besides those they have adopted, is to have recourse to the municipal archives, in which are deposited all the entries of election of the periodical renewals. That what he has stated

is the truth, under his oath, and signed with me and my assisting witnesses. I certify.

DE LA GARZA.
JOAQUIN ARGUELLES.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
CRISTOVAL LEAL.

Matamoras, May 3, 1850.—The licenciado, William G. Hale, having verbally asked that these proceedings in their present state should be returned to him in order to remit them to the court making the application, in virtue thereof, let them be delivered to him in the original and under their respective envelopes. I, the first constitutional alcalde of this city, judge of the first instance of the department of the north of Tamaulipas, have so ordered and signed, acting with assisting witnesses for the reason stated. I certify.

DE LA GARZA.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
CRISTOVAL LEAL.

On the same day, month, and year, the foregoing order was complied with; and for proof thereof, I make the present statement, which I sign with my assisting witnesses, with whom I act for the reason before given.

DE LA GARZA.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
CRISTOVAL LEAL.

On the outside cover.

Don Rafael Garcia Cavazos against Charles Stillman and others.

To the district court of Texas, one of the United States of North America.

From the court of the 1st instance of the department of the north of Tamaulipas, in Matamoras.

I certify that the foregoing is a correct translation of the original, made under the order of the court.

WILLIAM G. HALE.

Read at the hearing by the complainants.

JAMES LOVE, *Clerk.*

Document A.

(Copy of the testament of Doña Francisca Cavazos.)

The following document or copy of will was offered in evidence by the complainants at the hearing of this cause, and objected to by defendants as incompetent evidence.

The same special objections were made to its admissibility as were made to and endorsed on the copy of the testament of Doña Maria Gertrudes de la Garza Falcon, heretofore admitted in evidence, and the same were overruled by the court, and the said document or copy was read in evidence by complainant.

JAMES LOVE, *Clerk.*

Objections to the paper marked A.

Will of Doña Maria Francisca Cavazos.

1st. The will is without date.

2d. The paper does not show the proper seal. It should be stamped paper of the year which it is pretended to have made, and the Bienio of the year in which the copy was made should appear.

3d. The certificate of Escevado, when taken in connexion with the package or inventory to which it refers, shows that the inventory or package was made the latter part of June, and the certificate here is the first of July, when it should be the first June—making a contradiction positive in the inventory (or package) and his certificate.

4th. The certificate of Escevado or attestation is different from the certificates to the wills of Garza and Falcon; see the form of it. It is not signed by the assisting witnesses.

5th. The will does not appear to be probated, nor was it ever probated according to law. There should be seven witnesses, or five and a Notary Public.

6th. And, for other causes apparent, the court is asked to rule it out as improper testimony.

ATCHISON,
for Mussina.

Jan. 24, 1854.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

I, James Love, Clerk of the District Court of the United States for the District of Texas, certify that the foregoing ten pages contain a true and perfect copy of the copy of the will of D'a Maria Francisca Cavazos, originally filed in the Chancery case No. 41, Cavazos *et als.* vs. Stillman *et als.*, and Law case No. 134, Cavazos vs. Mussina, which original is withdrawn by leave of the Court, and this copy filed in its stead.

In testimony whereof, I hereunto set my hand and affix the seal of said Court, at Galveston, this fifth day of August, in the year of our Lord one thousand eight hundred and fifty-four.

[SEAL.]

JAMES LOVE,
Clerk.

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS *et als.* }

vs.

SIMON MUSSINA. }

RAFAEL GARCIA CAVAZOS and others }

vs.

CHARLES STILLMAN and others. }

In Chancery.

Translation of the testament of Doña Maria Francisca Cavazos, filed in the last of the above causes, and to be offered in evidence in both, on the part of the plaintiffs.

In the name of the Omnipotent God, and of our Lady, the Virgin Mary, conceived without original sin from the first moment of her purest existence, Amen: Be it known and notorious, that I, Doña Maria Francisca Cavazos, a native of the town of Reynosa, and resident of this congregation of our Lady of Refugio, legitimate daughter of Narciso Cavazos and of Doña Maria Ignacia de Inojosa: Being unwell and confined to my bed with a sickness which it has pleased God to visit me, being in my perfect natural judgment and understanding, believing, as I do believe, in the mystery of the most blessed Trinity, Father, Son, and Holy Ghost, three distinct persons, and one holy God truly omnipotent: I likewise in the incarnation of the Divine Word in the purest womb of Mary, always a Virgin, and in all the other Mysteries, which our Mother, the Holy Roman Catholic Apostolic Church holds, believes, and confesses, in the faith and belief whereof I have lived, and declare that I die a Christian of the Roman Catholic and Apostolic Church, redeemed by the inestimable price of the purest blood of our Lord Jesus Christ, fearing, as I do fear, that death, which is the common lot of all created beings may come upon me unawares, and desiring to save my soul, choose and name as my patrons and advocates, and intercessors before the Tribunal of God, where I am to appear to give an account of my life, the Most Holy Virgin of Refugio, the glorious patriarch St. Joseph, the Archangel St. Michael, Saint of my name and devotion, and all the Saints of the court of Heaven, that when the hour of my death shall come, and my soul shall leave my body, they may transfer it from this world to the safe Harbor of Salvation, where I hope they will intercede for it, for it is my desire and prayer that my soul may be saved: I ordain and make this my will in the form and manner following:

1o first: I commend my soul to God, our Lord, who created it, and redeemed it with the inestimable price of his blood, and I beseech his Majesty to raise it to his glory for which it was created, and my body I commit to the earth, since it was formed from it.

2o item: I order my body to be laid out in the grave clothes pre-

scribed by our Seraphic Father St. Francis, and that my burial be of the first class, though humble and unostentatious.

3o item: I order that my body be buried in the Holy Church of this Congregation, in which the pains of seized me, near the first steps of the altar.

4o item: I declare that I have been married according to the canons of our Mother, the Holy Church, to D. Blas Maria de la Garza, by which marriage we had no issue during the entire continuance of the marriage for ten years, and having no forced heirs, it is my will to appoint (nombrar) as my heirs, in the first place, my sister Doña Maria Ignacia Cabazos, and in the second place, to my niece Doña Maria Josefa Cabazos, whom I appoint as my heirs in their respective portions of my property (en la parte que les corresponda de mis bienes:) I declare it, so it may be known.

5o item: I declare that when I contracted marriage with my husband, D. Blas Maria de la Garza, I put in his power the following property: Forty-five mares; six colts, two years old; two jackasses; a gentle horse; three geldings, fully grown; six colts, two years old; fifteen young foals, branded; two leading [stallions] horses (Cavallos Padres;) ten cows; four bulls: and I do so declare it, that it may be known; branded, blotted—incorrect.

6o item: I declare that I have received what was coming to me from my maternal inheritance on the part of my deceased mother, Doña Maria Ignacia de Inojosá, and am entirely satisfied: I do declare it, that it may be known.

7o item: I declare that of the paternal inheritance which ought to be coming to me on the part of my deceased father, D. Narciso Cabazos, I have received one drove of twenty-eight mares with a stallion, and ten colts a year old, a gentle mule, and another two years old, a young mule branded, two gentle horses, seven jennies, sixty sheep, fifteen lambs, a large crowbar, a middling sized axe, and a cart very much used, a gridiron: I so declare it, that it may be known.

8o item: I declare that I have a gentle saddle mule in the possession of my brother, D. José Manuel Cavazos, which I give to him, provided God shall call me to judgment: I so declare it, that it may be known.

9o item: I declare that I have taken out of the estate of Carisitos a certain number of beeves, as appears in the accounts which remain in the possession of my stepmother, Doña Guadalupe Cabazos, or in that of D. Lopez de Aleman, tithe proctor of Reynosa, and of this congregation: I so declare it, that it may appear.

10o item: I declare that I have at interest in the possession of D. José Perez Rey, two thousand dollars in reales, solid Mexican silver, together with its interest at five per cent., which amount the said D. José Perez Rey, on the twenty-fourth day of November, one thousand eight hundred and seventeen, of which amount I have received on account of the interest for the present year, eight reales: I so declare it, that it may appear.

11o item: I declare that I have in the possession of Captain D. José Miguel Paredes at interest the quantity of five hundred dollars, also in silver, with the interest upon the same, the obligation wherefor is dated on the first of December, one thousand eight hundred

and seventeen, having received the interest for the present year, eighteen hundred and eighteen and nineteen: I so declare it, that it may appear.

12o item: I declare that my residence in this congregation, which is composed of a hall, a bed chamber, and a lot of ground fenced with brush, with whatever is to be recognized as my property from the gates within: I so declare it, that it may be known.

13o item: I declare that I inherited from my deceased husband, the ensign D. Blas Maria de la Garza, the quantity of sitios (square leagues) of land, or thereabouts, (no completos,) situated in the estate (agostadero) of Esperitu Santo, on the other side of this Rio Grande, of which quantity I have sold, in actual sale (venta real) ten sitios to Captain D. José Miguel Paredes: I do so declare it, that it may appear.

14o item: I declare [as mine] the increase of stock that I have in the part of my deceased husband in the said estate, as well of horses as of other large stock: I do declare it, that it may be known.

15o item: I declare as my property the portions of each that I have on my father's and my mother's side, in the estate of Corrisitos, with the corresponding increase, as well of horses as of cattle: I so declare it, that it may be known.

16o item: I declare as my property the estate of Sombreretillo, which I have inherited from my deceased husband, as appears by his last will, leaf thirty-eighth and clause nineteenth: I so declare it, that it may be known.

17o item: I declare that I owe Cayetano Medrano the amount of twenty reals, and two hides: I declare it, that it may be known.

19o item: I declare that it is my will that the two thousand dollars which are at interest in the possession of the deceased D. José Peres Rey should be placed at interest with a creditable person, for the good of the soul of my deceased husband, and for my own: I so declare it, that it may be known.

20o item: I declare that it is my will as to the five hundred dollars above mentioned, that out of them my funeral, burial and forced legacies (mandas ferzosas) should be paid for; and that my heirs should dispose of the rest: I so declare it, that it may be known.

21o item: I declare that it is my last will to appoint, for the execution of this testament, executors to take possession of my property; and I appoint as such, in the first place, my sister, Doña Maria Ignacia Cabazos; in the second place, my niece, Doña Bartola Cabazos, whom I charge as such my executors and trustees, to keep, comply with and execute my said testament, according to and in the manner prescribed in it, and by its clauses, within the limits of the law; that for all, and for what appertains to and is suitable and proper for it, I confer upon them all my power and authority, so far as may be necessary and requisite; and for its greater validity and binding force, I have requested the alcalde of this congregation, D. Ramon Garcia, to interpose his authority and judicial decree, so far as may be necessary: And I, the said alcalde, complying with the duties of my office, have caused these respectable citizens to be present for the greater validity of this testament, to serve as witnesses; they

being D. Cayetano Medrano, D. Juan Longoria y Garcia, and D. Pedro Perda, all of this neighborhood: the testatrix did not sign, not knowing how to do so: I have signed, with my assisting witnesses, in the absence of every royal or public notary, there being none within the limits prescribed by the law: I certify. JOSÉ RAMON GARCIA. Assisting witness, José Antonio Gonzales. Assisting witness, José Cayetano Pineda.

This corresponds with the original instrument which remains in the archives under my charge, marked with the number 18, in the package enrolled of the years 1817 and 1818, to which I refer, and from which it has been faithfully and legally copied at the request of D. Rafael Cavazos, this the first day of July, one thousand eight hundred and thirty-five. Witnesses, the citizens Pedro Treviño, Francisco Mayorga, and Rafael Quintero, of this vicinity. I certify.

In testimony of truth. ANTONIO ESCAVEDO, notary public. Fees without the search, six dollars. Twenty reals the search over two years. Notarial seal.

I certify the foregoing to be a correct translation of the original, made under an order of the court.

WILLIAM G. HALE.

Document B.

[Copy of the Act of Partition.]

The following document was offered in evidence by the complainants at the hearing of this cause, and objected to by defendants as incompetent evidence.

The following special objections were made to its admissibility:

That the validity of the original by the laws of Mexico is not shown by complainants; that the execution of the original is not proved; that this copy offered in evidence is not proved in any sufficient manner to admit the same in evidence in this court.

JAMES LOVE, *Clerk.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

I, James Love, clerk of the district court of the United States for the district of Texas, certify that the foregoing thirty-six pages contain a true and perfect copy of the document marked *B*, originally filed in the chancery case No. 41, Cavazos *vs.* Mussina, which original is withdrawn by leave of the court, and this copy filed in its stead.

In testimony whereof, I hereunto set my hand and affix the seal of said court, at Galveston, this day of , in the year of our Lord one thousand eight hundred and fifty-four.

[SEAL.]

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS *et als.* }
vs.
 SIMON MUSSINA. }

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

In Chancery.

Translation of a copy of the act of partition between the heirs of
 D'a Francisca Cavazos.

On the exterior cover, in the handwriting of the notary :
 \$125.

Copy of the writing of extrajudicial partition between the heirs of
 age (herederos mayores) of Dona Francisca Cabazos, Dona Maria
 Ignacia, and Dona Josefa, of the same surname, the last with the in-
 tervention of her lawful husband, D. Rafael Garcia.

In the town of Matamoras, on the third day of the month of July,
 one thousand eight hundred and thirty-five, the twelfth of the installa-
 tion of the Congress of this State, before me, the notary public, and
 witnesses, appeared present Dona Maria Ignacia Cavazos, a resident
 citizen of the town of Reynosa, and Don Rafael Garcia, who is so of
 this town as the husband and married representative (*conjunta persona*)
 of Dona Josefa Cavazos, and said: That Dona Francisca Cavazos
 having died in this said town on the twenty-ninth of May last, the
 said parties, under the testament which she had made on the twenty-
 second of October, one thousand eight hundred and eighteen, before
 the *alcalde* D. José Ramon Garcia, who was so of this same town, and
 assisting witnesses for want of a notary public, with the competent
 number of instrumental witnesses, and by which she instituted as her
 universal heirs the aforesaid Dona Maria Ignacia and Dona Josefa
 Cabazos, the first her sister and the last her niece, accepting her in-
 heritance with the benefit of inventory, proceeded extrajudicially and
 amicably on account of being of age, and with the intervention of D.
 Juan Treanor as special attorney in fact of the one, and D. Rafael
 Garcia as lawful husband of the other, to the enumeration (*faccion*) of
 all the goods, credits, property and effects which were found belonging
 to the estate, which were valued by the respective experts, whom they
 unanimously chose, that the said inventory having been taken to their
 complete satisfaction, and as such they approved it anew; and con-
 sidering that to name judicial accountants for the division would occa-
 sion increased expenses, they determined to make by themselves the
 appointment of a person of sound information and worthy of their
 mutual confidence, who, in accordance with it, proceeded to draw up

the corresponding statement of the division (divisoria.) And in order that no doubt may ever arise as to its correctness, by common consent they agreed to reduce to the form of a public instrument, as well the inventories and valuation of the property as the aforesaid statement of the division; and to effect this they present to me the said documents, in order that I may annex them to this document, enrolling them in my protocol in continuation hereof. And in order that the aforesaid extrajudicial partition may have the force, stability, and validity that the interested parties desire in it in the most effective mode and form admitted by law, being informed of their powers, by their free and spontaneous consent, they grant (olorgan) that they approve, ratify, and acknowledge as done in perfect form and with the proper requisites, and, if necessary, they go over again (formalozan de nuevo) the aforesaid partition with its preliminaries, inventory of the estate, deductions, adjudications, declarations, and all the rest that it contains; and that they acknowledge as delivered to their satisfaction the property set off for each one of the aforementioned heirs respectively; and as its deliverer does not appear at present, although it has been certain and real, as they confess they renounce the exception of its not having done, which they might raise, the ninth law of the first title of the fifth partida, which treats of it, and the two years that it fixes for the proof of its receipt, which they acknowledge as having passed, as if the really were so, and they make in favor of each the most effectual receipt and defence which the may conduce to their security: and, in consequence, they divest of power, desist, abandon, and renounce, for themselves and their heirs and successors, the dominion, property, possession, title, claim, recourse, or any other right which belong to them jointly, (indistintamente,) or could belong to them whilst their joint estate existed in the aforesaid property, and each individual thing of the inheritance, and the cede, renounce, and transfer it all, entirely and reciprocally, together with the real, personal, possessory, (utiles,) mixed, direct, executory, and other actions, which may belong or have belonged to it, (in the property,) or any single article, (alhaja,) without the least reservation, seeing that they have satisfied and reinstated each other by what has been set off to her, in the full amount of her part belonging to the inheritance, of their aforesaid sister and aunt, on which account such actions as they had during the joint estate are satisfied, extinguished, and at an end, because they have been compensated by them by such division. And they confer on each other the most ample, elaborate, firm, and irrevocable power that they require, with the free, unembarrassed, and general administration, and the power of substitution, and constitute each other attorneys and principals (procuradores actores) in their own business, in order that each one of the heirs may take and appropriate the real holding and possession of the property that has been adjudged to her in the aforesaid division, and may sell, exchange, use, and dispose of it at her pleasure and election as of her own property, acquired by a just and lawful title, as indeed it is by the adjudication which has been made to her, and by this instrument, an authorized copy whereof they desire should be given to each one, in-

serting its statement of partition, preliminaries, decorations, and the other matters thereto appertaining, in order that it may serve them as a lawful title to their portion, with which, without any other act of possession, (a precion,) it may be seen that they have transferred to both and each of the two the possession and dominion of whatever has fallen and been adjudged to them, and, in the meantime, the constitute each other their lessees, tenants, and temporary possessors, (precarios posedores,) in legal form; and they declare that in the valuation of the property included in the inventory, and in the liquidations, deductions, amount, and quality of that set off for either of the heirs, there is no lesion, deceit, nor the slightest injury, since this has been done with integrity and honesty, (pureza,) and the proportion corresponding to the part of each one in all its classes has been observed in this distribution and division, without injury to them; and in case this should have happened, whether it be committed in a material error of calculation, or in the mode and form of liquidating, deducting, setting off, distributing, or in anything else which, through forgetfulness or ignorance, they may not have had in mind, they remit and release to each other the amount, whether it be great or little, to which it rises, of which they make to each other a mutual gift and donation, pure, perfect, and irrevocable, between the living, (entrevivos,) by this public declaration, (con insumacion,) and all the other bonds of the law; and for greater abundance, they renounce the fourth law of the seventh title, book fifth, of the royal ordinances, (real ordenamiento,) which treats of things sold and exchanged, and of other contracts in which there is lesion in a greater or less amount than the half of the value, and the four years which it prescribes for demanding a recession of the aforesaid contracts, or the making up of the legitimate and true value of the things contained in them, which (*i. e.*, the four years) they acknowledge as part as if they had actually elapsed, in order never to avail themselves of aid from them; and they bind themselves that if at any other time any other property, credits, or effects shall be discovered belonging to the estate of the aforesaid Doña Francisca Cavazos, their deceased mother and aunt, they will divide them between themselves in the same proportion as those in the inventory, without any difference, and with the same mode of estimating their shares, and they will pay the debts which may appear against the estate; to all which they may be compelled by the full rigor of the law and executive process, as well as the payment of the costs, injuries, and damages which she who may take possession of the property which may be discovered, may occasion her co-heir, by resisting its production in order to divide it between both, or by delaying it maliciously, or by not making, through any ill humor, punctual payment of the part belonging to her of the debts which may appear against the estate, on the amount of the whole being stated in the account, sworn to by her co-heir, or any one who may represent her, without any further proof or authentication, since they mutually dispense with it; and in pursuance of what is ordered by the ninth law, fifteenth title of the sixth partida, they find themselves also for the eviction, safety, and soundness of the property set off, to each one of the two respectively, and that if any of the real or leasehold

(productive) property [*i. e.*, that which brings in an income or profit (redituable)] should fail on account of belonging to some third person, or should be mortgaged or encumbered by some burden or liability not here set down, through ignorance or any other legal cause not herein expressly stated, the other heir shall reimburse her for what she loses, and what ought to be repaid to her; and should a suit be brought as to such property, or any part thereof, (*cualquiera finca*,) however little it may be worth, each shall appear for its defence, upon being required, in conformity with law; and on the other hand, if one does not inform the other within the limit which the law provides, the negligent party shall pursue the suit at her own cost in all courts, until execution, and until the other is left in quiet and peaceable possession, without having to expend or disimburse the smallest amount; and if, when once requested and cited in eviction in the manner before stated, she should not prosecute the suit, the defendant must continue it, and shall not be obliged to summon her again in any stage of the cause, since the first citation must be, and be understood to be, peremptory as respects all the suits in any court, and in this case, should she obtain a favorable sentence, she shall receive and be paid all the costs and damages stated to have been or exacted of her, whether she pursues the suit by herself, or avail herself of the aid of another, whom she may satisfy for the trouble of her case. And should she be deprived of the estate or estates in liquidation, she must not only be compensated and reimbursed for the aforesaid expenses, costs and damages, but also for the value at which the estates lost were set off to her, and of the fruits which she may have restored by virtue of the judgment without the slightest diminution, under the penalty of execution and costs against the party failing, the account between the heirs being balanced upon the understanding that if the property existed without being divided, the loss would all come out of the common mass, and each would receive so much less; and neither, in order to excuse herself from contribution and payment, shall attempt to impute the loss to the fault or negligence of the other, since she shall not be heeded as to this in the courts, unless the other shall abandon the suit without making any defence, or shall not appeal from an adverse decision at the proper time and in due form, or shall compromise it without the express previous assent and consent, in writing, of her co-heir, or be liable to some of the other causes, by which, according to law, there arises no obligation or eviction for compensation, of which the thirty-sixth and thirty-seventh laws of the fifth title of the fifth *partida* treat, since in these cases, and not in any other, whatsoever it may be, they are not, nor can they be, bound by such obligation; and they also bind themselves not to object to this instrument, nor to oppose its context in whole or in part; and if they should attempt it, besides that they ought not to be admitted to do so judicially nor extrajudicially, they shall moreover be considered, by this very act, to have approved, ratified, and granted it anew, with greater obligation and effect; and for the confirmation and validity of all things hereinbefore set forth, they bind their property and revenues, present and future, with complete and full submission (*con poderio y sumision*) to the judges and

tribunals of the Mexican confederacy, and those of this State, in order that they may compel them to their fulfilment, with the rigor of a judgment by consent invested with the authority of a final sentence, (*cora adjudicata*,) or in whatever way may be most suitable. So they have said, granted, and signed: D. Demetrio Salazor, D. Hilario de Merza, and D. Joaquin Arguelles, resident citizens here present being witnesses: Maria Ignacia Cabazos, Josefa Cabazos, Rafael Garcia Cabazos. Before me, Bach. Pedro P. Pelaez, notary public.

In the original, after what has been translated on the foregoing pages, follow the papers, inventories, accounts, and statements of the respective portions of the heirs, referred to in the agreement or act. It seems unnecessary to translate these at length, as most of them have no bearing on this case, and it will probably be sufficient to state their general substance, and translate only the passages referring to the property in controversy at the present time, reserving the right to submit the whole of the original in evidence, and offering to translate it whenever required.

The first document attached to the act of partition is an inventory of the estate of D. Blas Maria de la Garza, the aggregate value appearing to be \$8,484 00.

Among the items is the following:

Twenty sitios (leagues) of land in the estate (agostadero) of the Esperitu Santo, at two thousand dollars - - \$2,000

Next follows the inventory of the estate of Doña Francisca Cavazos; the aggregate value being set down at \$3,502, not including a number of tracts of land and debts not valued. Among the items is the following:

Ten sitios of land, more or less, (no cabeles,) in the agostadero del Esperitu Santo, at two thousand five hundred dollars - - - - - \$2,500

Next follows the partition of the estate of Doña Francisca Cabazos, made by D. José Secundino Mora, appointed by consent of the heirs for this purpose.

In effecting this he states that D. Blas Maria de la Garza left one-fifth of this estate to Doña Josefa Cavazos, and the remainder to his wife, Doña Francisca; and as the latter had returned the whole during her lifetime without a division, it is first necessary to distribute that estate. He then sets forth with great minuteness the provisions of the testament of D. Blas, the property he left and its valuation.

From the account he states between the heirs, it appears \$ r. g.
that the fifth, devised to D'a Josefa, amounted to 841 3 3
after deducing the debts due from the estate, etc.

This amount was retained by D'a Francisca from August 15, 1802, and the interest from that date to the time of the present partition, in favor of Doña Josefa, amounts to - - - - - 1382 6 6

The expenses of the funeral of Doña Francisca were - 118 1 6

Making the charges against the estate of Doña Francisca, 2342 3 3

After stating with equal minuteness the provisions of the testament of Doña Francisca, and the valuation of the property she left, he makes the gross value of her estate				\$3531 0 0
Less the above charges				2342 3 3
Nett				1188 4 9
Of this one-half descends to each heir by the will, so that each must receive from the estate				594 2 4½
The share of Doña Ignasia is, then				594 2 4½
“ “ of Doña Josefa				594 2 4½
With the addition of the charges in her favor, <i>i. e.</i> ,				
1st. The original value of the bequest of D. Blas				841 3 3
2nd. Interest thereon, as above				1382 6 6
Total amount of her share				2818 4 1½

After then ascertaining the value of the respective shares, it is next necessary to apportion the estate of Doña Francisca, or to distribute the specific property belonging to that estate so as to satisfy each heir.

The estate consisted of the following:

Let then be set down to the estate three thousand three hundred dollars, at which they have valued fourteen sitios of land, in the Agostadero and Esperitu Santo and Sombretillo				\$ 3300
Item one hundred and fifty dollars, at which is estimated half a city lot with a hacel				150
Item fifty-two dollars for the furniture and clothing				52
Item twenty-nine in ready money				29
				3331
The estate of Sombretillo, containing four leagues, was given to Doña Ignacia, its value being				800 0
The share of Doña Ignacia was deduced, viz:				594 2 4½
Balance due the estate				205 5 7½
Out of which deduct the funeral expense, as above				118 1 6
There remains due from Doña Ignacia to Doña Josefa, the sole remaining heir				87 4 1½

To Doña Josefa was therefore assigned the rest of the estate, viz:				
Ten sitios in the Agostadero del Esperitu Santo, valued at				2500 0 0
The half lot and hacel				150
The ready money				29
The furniture and clothing				52
Making her share, as above				2818 4 1½

There remained undivided, on account of want of definite information as to amount and value, several tracts of land, debts due the estate, etc., as to which special agreements were made.

The passages in which reference was made to the tract of land now in controversy, by the commissioner appointed for the partition, were the following:

In stating the inventory of the estate of D. Blas Maria de la Garza.

Item: two thousand dollars, value of twenty sitios of land not stated in the testament, but appearing to be his property 2000

In stating the inventory of the estate of Doña Francisca Cabazos, as before translated, p. 11.

“In stating the property assigned to Doña Josefa Cavazos.

“Adjudication and payment.

“There are given in payment to Doña Josefa Cavazos ten sitios
“of land, more or less (no cabales,) in the Agostadero del Esperitu
“Santo, valued at two thousand five hundred dollars 2500.”
etc., etc.

The commissioner appointed for the petition concludes the statement of his settlement of the account in the following words:

With which declarations I conclude this partition, which, in accordance with the document exhibited to me and returned to those who delivered them to me, and under the oath I have taken, I have executed correctly, and faithfully according to my skill and understanding (intelligencia,) without wronging the interested parties. In testimony whereof, I signed these presents in the town of Matamoras, on the thirteenth of June, one thousand eight hundred and thirty-five. JOSÉ S. MORA. I approve this account of division (cuenta divensoria.) Maria Ignacia Cabazos. We approve this account. Josefa Cabazos. Rafael Garcia Cabazos.

The above agrees with its originals, which are filed (archivados) in the protocol under my charge. And in order to deliver this copy to Don Rafael Garcia, as lawful husband of Doña Josefa Cabazos, I have caused the present transcript to be made, which is written on twenty-one legal leaves, of which the first and the last belong to a sheet of the first seal. Town of Matamoras, July seventh, one thousand eight hundred and twenty-five, and twelfth of the installation of the Congress of this State.

[SEAL.]

Bach. PEDRO P. RELAEZ,
Notary Public.

The foregoing is a correct translation of the original on file in this cause, made in accordance with an order of the court.

WILLIAM G. HALE.

Document D.

The within document was offered in evidence by the complainants at the hearing of this cause, and objected to by the defendants as incompetent evidence.

The special objections to same were taken that it was not attached to nor sufficiently described in the interrogatories; that it was not

endorsed or sufficiently identified as the documents proved by the tribunal or officer taking the deposition; that the validity of the original is not shown; that this copy is not proved so as to be admissible in evidence; that the same is not competent evidence, and does not tend to prove any material fact. All which objections were overruled, and the said document read in evidence by complainants.

JAMES LOVE, *Clerk.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

Translation of the document marked *D*, referred to in the deposition of Don Juan Prado.

The citizen Juan Prado, second constitutional alcalde of this city and its jurisdiction.

The lessees of the places, named Rancho Viejo, Jarretada, Mesquite, and Paso Viejo, who until now have been lessees of Don Juan Tigerrina, shall account in future for the payments of their rents to the heirs of Doña Francisca Cavazos, in conformity with the final order made in the proceedings that have been prosecuted in my court, of which a copy has been delivered to Don Rafael Garcia Cavazos, as attorney of the said heirs, to the end that he may inform the said lessees of its tenor, as by my order of the third current month I have so decreed. City of Matamoras, the seventh of March, one thousand eight hundred and thirty-six.

J. PREDO.

By order of his honor,

Bach. PEDRO P. PELAEZ,
Notary Public.

I certify that the foregoing is a correct translation of the original, made under an order of the court.

WILLIAM G. HALE.

No. 18.

Depositions, from Matamoras, of D. Juan Longoriá y Serna, D. Pio Quinto Juojosá, D. Marcos Galindo, D. Juan Prado, D. Calixto Portilla.

The within depositions were offered in evidence by the complainants at the hearing of this cause, and objected to by defendants as incompetent evidence.

The same special objections were taken to their admissibility as were taken to and endorsed upon the depositions of Carceres, Cardenas, and Molano, taken at Victoria, and heretofore admitted in evidence.

The 9th interrogatory to Marcos Galindo was objected to as leading.

The deposition of Juan Prado was especially objected to, because all the interrogatories were not answered.

All which objections were overruled by the court, and the said depositions were read in evidence by complainants.

JAMES LOVE, *Clerk.*

The same objections were taken by the defendants to the reading of the within depositions as were taken to the package of depositions marked No. 8, and that all the witnesses named in the interrogatories which accompanied the letter rogatory were not examined, nor any reason given for their not being examined did not answer substantially all the interrogatories propounded to them, respectively.

JAMES LOVE, *Clerk.*

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

Translation of the proceedings before the Court of the first instance of the City of Matamoras in taking the depositions of D. Victoriano Lopez, D. Juan Longoria y Lerna, D. Pio Quinto Inojosa, D. Marcos Galindo, D. Juan Prado, D. Calixto Portilla, on the part of the complainants in the above entitled cause under the accompanying letters rogatory.

On the Outside Cover.

Numo. 1.

Tribunal of the First Instance with assisting witnesses.

To the Judge of the First Instance of the City of Matamoras:

William G. Hale, attorney at law of the District Court of the United States of America for the District of Texas, and authorized by the said court to present to your Honor the letter Rogatory which I annex, and Juan Treanor, a citizen of this city, and attorney in fact, of Don Rafael Garcia Cabazos, Doña Maria Josefa Cavazos, and Doña Estefana Gozeascochea de Cortina, very respectfully represent to your Honor that both justice and the interests of the said parties require that the depositions of the witnesses named in the said letter should be taken according to the form stated in it. Wherefore, we pray your Honor to be pleased to order all that is necessary in the present case to be done to comply with the desires of the said Court, in consideration that the rights of Mexican citizens are involved in this cause.

WILLIAM G. HALE.
JUAN TREANOR.

MATAMORAS, April 17, 1850.

MATAMORAS, April 19, 1850.

The annexed letter Rogatory and interrogatories having been presented, let whatever the Judge making the application by whom the letter has been issued, requests in it, be observed, complied with, and executed. In consequence, let the parties making this application be notified to present to the Court the witnesses named in the said interrogatory, that they may be examined in relation to the matter included in it, and with all the formalities of the law. I, the citizen Pedro José de la Garza, first Constitutional Alcalde of this city, and Judge of the First Instance of this Department of the North of Tamaulipas, have thus ordered and signed, acting with assisting witnesses, on account of the occupation of the Notary Public. I certify.

PEDRO J. DE LA GARZA.

Assa. wit.

LEONARDO ESPINOSA.

Assa. wit.

CRISTOVAL LEAL.

On the same day, month, and year, the attorney at law, William G. Hale, and D. Juan Treanor, being present in the Court, I notified them of the preceding act, and they declared that they would comply with so much of it as related to them; and they signed with me and my assisting witnesses, with whom I act, for the reason before stated. I certify. DE LA GARZA, JUAN TREANOR, WILLIAM G. HALE. Ass. wit. Leonardo Espinosa; ass. wit. Cristoval Leal.

In the City of Matamoras, on the twenty-third day of the said month and year, appeared in Court Don Juan Longoria y Lerna, one of the witnesses for the testimony that is being taken according to the interrogatories annexed to the letter rogatory, upon the execution whereof I am now engaged. I administered to him the oath in due form of law, under which he offered to tell the truth as to what he might know and should be asked; and being interrogated as to the tenor of the questions contained in the aforesaid interrogatories, he answered:

To the 1st: That he is personally acquainted with the plaintiffs, and of the defendants he only knows Charles Stillman, Doña Maria de los Angeles Garcia de Tarneva, and D. Ramon Safen, and Doña Feliciana Gozeascochea de Tigerina, and D. Manuel Prieto; and he answered

To the 2d: That he is sixty-four years of age; that he lives on his rancho, called San Juan de Dios, within the jurisdiction of this city; that since he was about the age of fourteen he has lived near the bank of the Rio Grande, and in this same jurisdiction; and he answered

To the 12th: That he did not know the individual referred to in the interrogatory; neither did he know where he had his principal hacienda, nor by what name it was known; and he answered

To the 13th: That in his answer to the preceding interrogatory he has already stated that he did not know Don José Salvador de la Garza, and for the same reason he is unacquainted with the subject of this interrogatory; and he answered

To the 14th: That as the deponent did not know the individual

mentioned, he is ignorant of the subject of this interrogatory ; and he answered

To the 15th : That he is equally ignorant of the matter contained in this interrogatory ; and he answered

To the 16th : That he is ignorant of what he is questioned about ; and he answered

To the 17th : That he has heard mention of Potrero or Agostadero, on the left bank of the Rio Grande, by the name of Esperitu Santo, but the deponent is not acquainted with it, neither does he know its extent ; he is also ignorant by whom the said tract was discovered, or who was its first owner, much less does he know to whom it was granted ; and he answered

To the 18th : That he does not know the ranchos that were established in the said Agostadero, nor by whom they were established, and that he also does not know where were the ranchos or places that are mentioned in this interrogatory ; and he answered

To the 19th : That he knows that Don Blas Maria de la Garza and Doña Javiera of the same name, children of Don José Salvador de la Garza, has possession, the first of the rancho of Posole, and the second in Santa Rita ; but that he does not know that the said ranchos were on the tract of Esperitu Santo ; that since the death of the aforesaid persons, Doña Francisca Cavazos, wife of Don Blas Maria de la Garza, continued in possession of the rancho called Posole, and Doña Estefana Gozeascochea and Doña Feliciana of the same name, daughters of Doña Javiera de la Garza, in possession of Santa Rita ; and he answered

To the 20th : That of the three persons to whom the interrogatory refers, that he was acquainted only with Don Blas Maria de la Garza, and Doña Javiera of the same name ; and that he first married Doña Francisca Cavazos, from which marriage he does not know that they had issue ; and the second, that is to say, Doña Javiera de la Garza, married Don José Gozeascochea, and had two daughters, Doña Estefana and Doña Felician Gozeascochea ; and he answered

To the 21st : That he knows that Doña Estefana Gozeascochea has her rancho on the bank of the Rio Grande, but that he does not know whether it is situated on the tract called Esperitu Santo, and was ignorant also whether the said lady was living in her said rancho in the month and year stated in this interrogatory. He states that Doña Maria de los Angeles Garcia was married the first time to Ramon Safen ; and he answered

To the 22d : That he does not recollect to have seen the testimonio of the title to which the question refers ; and he answered

To the 23d : That deponent was present at the survey of lands for Don Rafael Garcia, Don Manuel de la Garza, and Don Ignacio Treviño, in the years mentioned in the interrogatory, but he does not know that the land that was surveyed was called Esperitu Santo ; that he does not know that Don Matias Garcia as alcalde at that time demanded, and that the titles also mentioned were presented to him ; and he answered

To the 24th : That he knows nothing about the subject of the interrogatory ; and he answered

To the 28th: That he knows nothing that might be of benefit to the plaintiffs and defendants, and for the same reason cannot state any more than what he has said and what he has declared in a separate proceeding before the court of the United States of North America in relation to the lands of the left bank of the Rio Grande; and he answers that what he has said is the truth on his oath; that he is a native of the town of Camargo, and citizen of this city, married, stock raiser, sixty-four years of age. His deposition was read to him, and he said it was faithfully written, and signed with me and my assisting witnesses, with whom I act for the reason stated. I certify.

DE LA GARZA.

J. LONG'A Y LERNA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

In the city of Matamoras, on the twenty-third day of the said month and year, appeared in court Don Rio Quinto Hinojosa, one of the witnesses in this case. I administered to him the oath, which he took in form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked; and being interrogated according to the tenor of the questions addressed to him in the interrogatories under which this testimony is being taken, he answered—

To the 1: That he is personally acquainted with the plaintiffs, with the exception of Doña Estefana Gozeascochea de Cortina. That of the defendants, he only knows Charles Stillman, Doña Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Doña Feliciano Gozeascochea de Tigerina, and Don José Manuel Prieto; and he answered

To the 2d: That he is fifty years of age, and lives in the rancho of San Juan, upon the right bank of the Rio Grande, upon the road going from this city to Burrita; that he has passed all his life residing near the banks of the said river since he lived at Reynosa from his infancy to the year 1810, and from that date he has lived in the jurisdiction of this city; and he answered

To the 12th: That he was not acquainted with Don José Salvador de la Garza, but he has heard it said that he had his estate (hacienda) in the agostadero, on the left bank of the Rio Grande; that it was then known by the name of Rancho of Posole, and now by that of Ranch Viejo; and he answers

To the 13th: That he has already said in his preceding answer that he was not acquainted with Don José Salvador de la Garza; and answers

To the 14th: That although, as he has said before, he was not acquainted with the aforesaid Don José Salvador de la Garza, he has heard it said that he was respected and enjoyed the esteem of all the inhabitants of this country during his lifetime; that he was rich, and a man of much importance and consideration; and he answers

To the 15th: That he has already said, in his answer to the twelfth interrogatory, that he has heard it said that the rancho of Don José

Salvador was called Posole, and the place where it was situated is now called Rancho Viejo; that he does not know the distance from this point to Brownsville; and he answers

To the 16th: That he knows nothing about the houses, hacals, corrals and cattle-pens which Don José Salvador had established on the said rancho, but he has heard that on this rancho the aforementioned person raised and had a great number of cattle and small stock; and he answers

To the 17th: That he does not know Potrero or Agostadero of Esperitu Santo, but that he knows, because he has heard it by general reputation, that the said name was given to the agostadero included within the Arroyo Colorado and this Rio Grande; that he likewise has heard that the said agostadero was discovered and settled by the aforesaid Don José Salvador de la Garza, and that it was granted to him; and he answers

To the 18th: That in the aforementioned agostadero del Esperitu Santo, the witness knows and declares that the following ranchos were established: That of Santa Rita, Santa Rafael, and el Tanque, which same were established by the heirs of Don José Salvador de la Garza; that although of those places mentioned at the end of the interrogatory, he only knows that of los Indios and Mesquite; he nevertheless knows that the others are to be found within the boundaries of the agostadero del Esperitu Santo: and he answers

To the 19th: That since the death of Don José Salvador de la Garza, his son, Don Blas Maria de la Garza, was the possessor of the said tract; that since his decease, his wife, Doña Franciscas Cabazos, who was his heir, succeeded him in the possession; and moreover, witness has learned that the said tract has been in the possession of Don Manuel Prieto and Don Antonio Prieto, Doña Feliciana Gozeascochea de Tijerina, and the wife of Don Trinidad Cortina; and he answers

To the 20th: That he is not personally acquainted with any of the persons named in this interrogatory, but he certifies that the last one, that is to say, Doña Javiera de la Garza, was the mother of Doña Feliciana Gozeascochea de Tijerina, and of the wife of Don Trinidad de Cortina; that he is certain that Don Blas Maria de la Garza had no family, but is ignorant whether or not Doña Marguerita de la Garza had any; and he answers

To the 21st: That he knows that the rancho of Doña Estafana Gozeascochea is a little above the New Town, (villa nueva,) and situated on the agostadero of Esperitu Santo; and the witness is sure that the said lady lived on the said Rancho in the month and year mentioned in the interrogatory; and he answers that Doña Angela Garcia married the first time with Don Ramon Safen; and he answers

To the 28th: That all he knows in favor of the plaintiffs is, that the aforesaid tract has always been recognized as the property of the aforementioned, which fact is notorious, and all he can add to this his deposition; and he answers under oath that what he has stated is the truth; that he is a native of the town of Reynosa, and a citizen of this city, married, a farmer, fifty years of age; I read to him his deposi-

tion, which he said was correctly written, and he signed with me and my assisting witnesses, with whom I act, for the reason stated. I certify.

DE LA GARZA.
PIO QUINTO INOJOSA.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
CRISTOVAL LEAL.

In the City of Matamoras, on the twenty-sixth day of the said month and year, Don Marcos Galindo appeared in Court, one of the witnesses mentioned in the interrogatories under which this testimony is being taken. I administered to him the oath, which he took in form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked; and being interrogated according to the tenor of the questions addressed to him in the said set of interrogatories, he answered

To the 1st: That of the plaintiffs he only knows by intimacy and communication Don Rafael Garcia Cavazos, but not his wife, Doña Josefa Cavazos, since he only knows this lady by sight, and that he is not acquainted with the last, that is, Doña Estafana Gozeascochea de Cortina; that of the defendants he knows Charles Stillman, Don Simon Mussina, Don W. W. Chapman, Doña Maria de los Angeles Garcia Safen de Tarneva, Doña Ramon Safen, Doña Feliciana Gozeascochea de Tijerina, and Don José Manuel Prieto: and he answered

To the 2d: That he is thirty years of age, and has lived in this city for sixteen years, that being the time he has dwelt near the banks of the Rio Grande: and he answered

To the 9th: That he was in fact assisting witness at the time stated in the interrogatory, and for the same reason he knows all its contents to be true: and he answers

To the 10th: That he certifies that Don Juan Tijerina was the person who presented to the first Alcalde the title or original Testimonio, in order that he might issue to him the copy mentioned; and the wife of Tijerina was Doña Feliciana Gozeascochea: and he answers

To the 11th: That in its external appearance, it appeared a document of almost illegible writing, on account of its antiquity, since the said document upon first sight was perceived to be very old; and he answers

To the 28th: That he knows no more that can be a benefit to either of the parties, nor has he anything to add to this his deposition; that what he has stated is the truth, upon his oath; that he is a native of San Buena Ventura, and citizen of this city, married, a clerk, thirty years of age: his declaration was read over to him, and he said it was faithfully written, and signed with me and my assisting witnesses, with whom I act for the reason aforestated. I certify.

DE LA GARZA.
M. GALINDO.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
CRISTOVAL LEAL.

In the City of Matamoras, on the twenty-sixth day of April and year aforesaid, appeared in Court Don Juan Prado, one of the witnesses mentioned in the interrogatories under which this testimony is being taken. I administered to him the oath, which he took in form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked; and being interrogated according to the tenor of the questions addressed to him in the said set of interrogatories: he answered

To the 1st: That he knows the plaintiffs and defendants, with the exception of Ricardo Fitzpatrick and Jacob Mussina; and he answers

To the 2d: That he is forty years old, and lives in this city, and that from his birth he has been near the bank of the Rio Grande; and he answers

To the 25th: That the document that is exhibited to him, marked with the letter *D*, is an order that deponent issued as second constitutional alcalde of this city, in the year mentioned, and the signatures affixed at its end are, the first, that which deponent uses and employs, and the second, that which the Bachelor Don Pedro Pablo Palaez uses as Notary Public, who acted in this character in the same with deponent; and he answers

To the 27th: That the document exhibited to him in this proceeding, marked with the letter *X*, contains a faithful copy of the articles 41 and 42 of the municipal ordinances of this city; and deponent is sure of its correctness, because of the comparison made in this case between the aforesaid document and the aforesaid articles of the aforesaid ordinances; that the signature affixed to the end of the said document is the same that was and is used by Don Andres Treviño, which personage was Secretary *ad interim* of the illustrious Ayuntamiento at the time it was signed; and he answers

To the 28th, and last: That he knows no more that can be a benefit to either of the parties, nor has he anything to add to or retrench from his deposition, and he answers that what he has stated is the truth, upon his oath; that he is a native of the town of Reynosa, and a citizen of this city, unmarried, Secretary *ad interim* of the illustrious Ayuntamiento, and forty years of age; his deposition was read to him, and he said it was faithfully written, and signed with me and my assisting witnesses, with whom I act for the reason aforesaid.

DE LA GARZA.
JUAN PRADO.

Ass. wit.,
LEONARDO ESPINOSA,

Ass. wit.,
CRISTOVAL LEAL.

In the City of Matamoras, on the thirtieth day of the month of April of the year one thousand eight hundred and fifty, Don Calixto Portillo, one of the witnesses mentioned in the interrogatories under which this testimony is being taken, being present in Court, I administered to him the oath, which he took in the form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked; and being interrogated according to the tenor of the questions addressed to him in the said set of interrogatories addressed to him, he answered:

To the 1st: That he is personally acquainted with the plaintiffs, and of the defendants he knows by sight Charles Stillman, Samuel A. Belden; in the same manner he knows Don Ramon Safen, and of those last he only knows by intercourse and communication Doña Maria de los Angeles Garcia Safen de Tarneva, and Dona Feliciana Gozeascochea de Tijerina, and Don José Manuel Prieto; and he answers

To the 2d: That he is forty-eight years of age; that he lives in this city, and on his estate, situated in , on the right bank of the Rio Grande, and that he has lived near the banks of said river since his birth; and he answers

To the 3d: That he knows the Agostadero or Potrero called Esperitu Santo, situated on the left side of the Rio Grande, and he knows that the town of Brownsville is situated upon the said tract of land, but does not know the number of leagues which on both sides of the said point are comprised in the said Potrero; and he answers

To the 4th: That he does not know the individual to whom the interrogatory refers, and consequently does not know whether the said individual had possession of the tract spoken of, and is also ignorant of the rest of the subject of the interrogatory; and he answers

To the 5th: That he knows nothing of the subject of the interrogatory; and he answers

To the 6th: That he does not remember the number of years that have elapsed since the death of Doña Francisca Cabazos, wife of Don Blas Maria de la Garza, and that deponent was acquainted with this lady while living in this city, and that he knew that she was the owner of a part of the Agostadero del Esperitu Santo, in which tract of land he knew she had a field situated below, and near the point where Brownsville is now situated; and he answers

To the 7th. That he does not know where the Rancho referred to in this interrogatory is situated, and he knows that Don Rafael Garcia Cavazos has a field below the town of Brownsville, at a distance of a quarter of a league, a little more or less, but he does not know that it is actually cultivated by the said Garcia Cavazos; and he answers

To the 8th: That the rancho of the Señora Gozeascochea, and that of her son, Don Sabas Cavazos, are situated a little above the new town, (villa nueva,) and, as this deponent thinks, are upon the tract of land of the Agostadera del Esperitu Santo: That he does not know that said persons have other ranchos than those stated, and another that they have in the place called San Jose, not knowing whether the last is occupied by them, or by some other person to whom they may have rented it; and finally, he is sure that Doña Estefana was occupying her rancho in the month and year stated in the interrogatory; and he answers

To the 28th, and last: That the only thing that he knows and that can be of benefit to the plaintiffs is, that they have been recognized as owners of the Agostaderos del Esperitu Santo, some by purchase, and others as successors of the first owners of the said Agostadero, which circumstance is also favorable to the defendants, with the exception of Charles Stillman, Samuel A. Belden, Jacob Mussina, Patricio C. Shannon, Richard Fitzpatrick, W. W. Chapman: The first

of which persons, I have heard it said, has made purchases on the tract which once belonged to this city, on the left bank of the Rio Grande, but I do not know if it be so, neither do I know from whom he purchased; and he answers that what he has stated is the truth, upon his oath; that he is a native, and citizen of this city, married, a farmer, forty-eight years of age; his declaration was read to him, and he said they were faithfully written, and signed with me and my assisting witnesses, with whom I act, for the reason stated. I certify. Interlined—estos—Brownsville—correct. All of which I certify.

DE LA GARZA.

CALIXTO PORTILLO.

Ass. wit.

LONARDO ESPINOSA.

Ass. wit.

CRISTOVAL LEAL.

MATAMORAS, *May 3, 1850.*

The licentiate, William G. Hale, having verbally asked that these proceedings in their present state should be returned to him in order to remit them to the Court making the application, in virtue thereof, let them be delivered to him in the original and under their respective envelopes. I, the First Constitutional Alcalde of this city, Judge of the First Instance of the Department of the North of Tamaulipas, have so ordered and signed, acting with assistant witnesses for the reason stated. I certify.

DE LA GARZA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

CRISTOVAL LEAL.

On the same day, month, and year, the foregoing order was complied with; and for proof thereof, I make the present statement, which I sign with my assisting witnesses, with whom I act for the reason before given.

DE LA GARZA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

CRISTOVAL LEAL.

On the outside cover.

Suit of Don Rafael Garcia Cavazos, against Charles Stillman and others.

To the district court of Texas, one of the United States of North America.

From the court of the first instance of the department of the North of Tamaulipas, in Matamoras.

I certify that the foregoing is a correct translation of the original, made in compliance with the order of the court.

WILLIAM G. HALE.

Read at the hearing by the complainants, except the deposition of D. Victoriano Lopez, which was excluded.

JAMES LOVE, *Clerk.*

No. 19.

Deposition from Camargo of D. Santiago Dominguez.

The within deposition was offered in evidence by the complainants at the hearing of this cause, and objected to by the defendants as incomplete evidence.

The same special objections were made to the same as were made to and endorsed on the depositions of Carceres, Cardenes and Molano, taken at Victoria, and heretofore admitted in evidence in this cause.

The objections were overruled by the court, and the deposition read in evidence by complainants.

JAMES LOVE, *Clerk.*

Translation.

DISTRICT COURT OF THE UNITED STATES,

District of Texas.

RAFAEL GARCIA CAVAZOS *et als.*
vs.
 CHARLES STILLMAN *et als.*

In Chancery.

Translation of the deposition of Don Santiago Dominguez, taken before the court of the first instance of the town of Camargo, upon the letters rogatory annexed.

To the judge of the first instance, William G. Hale, attorney at law of the district court of the United States of America for the district of Texas, and Juan Treanor, a citizen of Matamoras, attorney in fact of Don Rafael Garcia Cavazos and his wife, Dona Maria Josefa Cavazos, whose power of attorney he presents and asks to be returned to him, very respectfully state to your honor, that the said court has issued the letter rogatory which the said attorney at law has the honor to present, to the end that justice may be perfectly administered between the parties named in the said letter. Wherefore, the said attorney at law, on the part of the court that he represents, and Juan Treanor, on the part of his principals, whose interests are involved in the cause mentioned in this letter, pray your honor that you will be pleased to order that whatever is necessary in the present case be done to comply with the wishes of the said court, and that you will be pleased to admit this petition on common paper, there being none of the corresponding seal in this place, with the engagement to refuse it when any is obtained.

Camargo, November twenty-seventh, one thousand eight hundred and forty-nine.

WILLIAM G. HALE.
JUAN TREANOR.

CAMARGO, *November 27, 1849.*

The foregoing having been presented and admitted with the documents mentioned so far as the law allows, let the citizen Santiago Dominguez, first regidor of the ayuntamiento of this city, be summoned, and let him depose in conformity with the tenor of the interrogatories referred to; and upon his deposition being concluded, let this original proceeding be returned to the parties as they ask. I, the citizen José Maria G. Villareal, constitutional alcalde and judge of the first instance of this town of Camargo and its jurisdiction, so provide, order, and sign by this decree, acting with assisting witnesses for want of a notary public. I certify.

J. MARIA G. VILLARREAL.

Ass. wit.

CRISTOVAL MORALES.

Ass. wit.

LUIS GARCIA.

Thereafter, in consequence of the citation made in virtue of the preceding order, before me, the aforesaid judge, and in this my court, appeared the citizen Santiago Dominguez, and I administered to him in his proper person, which I certify I know, the oath, in due form, upon which he declared he would state the truth as to what he might know and should be asked; and being interrogated in conformity to the law as to its general requisites, he said that his name was as above stated; that he was married, by occupation a merchant, thirty years old, of this vicinity, and a member of the Roman Catholic Apostolic Church; and he answers—

Being interrogated according to the tenor of the interrogatories presented by the parties in virtue of the letter rogatory from the judge of the district court of the United States for the district of Texas, entitled Don Rafael Garcia Cavazos and others against Charles Stillman and others, he said—

To the first interrogatory: That he knows some of the plaintiffs and defendants only by sight.

To the 2d: That he knows nothing of its subject.

To the 3d: That he knows nothing.

To the 4th: That he has seen the paper marked *E*, which has been exhibited to him, and that he is also ignorant of the subject to which it refers.

To the 5th: That he knows the handwriting and signature of the Señores D. Manuel de la Viña and D. Raf'l Pariente, but not that of D. Antonio Leal de Leon, and that, according to his true knowledge and understanding, they are the same which are at the end of the written paper before mentioned, and that he knows not if the said paper or writing be a faithful copy and legally transcribed from the original testament.

To the 6th: That he has seen the paper writing marked *F*, which has been exhibited to him, which is a faithful copy of the testament of the deceased Dona Maria Gertrudis de la Garza Falcon, and that the handwriting and signature which authorizes the said copy, with two assisting witnesses, is his own, and made with his own hand.

As to the 7th: That he is acquainted with the handwriting and

signature of Don Cristoval Morales and Don Trinidad Aldrete, who, in the presence of the deponent, wrote their names and set their signatures at the end of the said paper writing as assisting witnesses.

As to the 8th and last: He knows nothing else as to the present matter that can avail either of the parties, and he answers—

Being interrogated according to the tenor of the cross-interrogatories, he said to the

1st: That he has already said that he knows some of both parties, but only by sight.

As to the 2d: That he has his residence in this town, and that he has already stated at the beginning his age and business.

As to the 3d: That he knows nothing.

As to the 4th: That from this place to Matamoras it is about forty leagues.

As to the 5th: That he knows nothing.

As to the 6th: That the answers which he has given are founded upon what he knows of himself, and based upon his own conscience.

As to the 7th: That upon being required by the present judge, and in consequence of having taken his oath, he has deposed and now deposes in this matter, and that as to compensation and the like nothing has been promised to him; and he answers no further because the last part of the question to which he has just replied is insulting and foolish.

Being asked whether he has anything to add or subtract from what he has stated, he said not; that what he has said is the truth; and his declaration having been read over to deponent, he said it was well and faithfully written; whereupon he confirmed and ratified it and signed it with me, the said judge, and my assisting witnesses, with whom I act for want of a notary public, in conformity to the law. I certify.

J. MARIA G. VILLAREAL.
SANTIAGO DOMINGUEZ.

Ass. wit.
CRISTOVAL MORALES.

Ass. wit.
LUIS GARCIA.

Thereafter, no more depositions having been taken on account of the necessity which the party stated, these proceedings are delivered to them closed and sealed up, to be presented to the court in which they have been commenced; and for proof thereof, I make this note and my rubric.

(A Rubric.)

On the envelope.

To the district court of the United States of America for the district of Texas on the cause in chancery between D. Rafael Garcia Cavazos and others against Charles Stillman and others.

From the court of the first instance of Camargo of Tamaulipas, Mexico, Galveston.

I certify the foregoing to be a correct translation of the original, made by order of the court.

WILLIAM G. HALE.

20.

F. F.

Copy of the testament of Don Blas Maria de la Garza.

The following document or copy of will was offered in evidence by the complainants at the hearing and objected to by the defendants as incompetent evidence. The same special objections were made to the same as were made to and are endorsed on the copy of the testament of Dona Maria Gertudis de la Garza Falcon, read in evidence by complainants.

JAMES LOVE, *Clerk.*

This document was annexed to the deposition of Santiago Dominguez from Camargo, and was withdrawn by leave of the Court.

JAMES LOVE,
Clerk of U. S. District Court, District of Texas.

The same objection taken by defendants to all the within depositions as were taken to package No. 9, and overruled by the court and read in evidence by complainants.

JAMES LOVE, *Clerk.*

(Farther endorsement)

D'A FRAN'CA CABAZOS.

DISTRICT COURT OF THE UNITED STATES, }
District of Texas.

I, James Love, clerk of the district court of the United States for the district of Texas, certify that the foregoing sixteen pages contain a true and perfect copy of document *E*, originally filed in the chancery case No. 41, Rafael Garcia Cavazos et als. *vs.* Charles Stillman et als., which original is withdrawn by leave of the court, and this copy filed in its stead.

In testimony whereof, I hereunto set my hand and affix the seal of
[SEAL] said court at Galveston, this fifth day of August, in the year
of our Lord, one thousand eight hundred and fifty-four.

JAMES LOVE, *Clerk.**Translation.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS *et als.* }
vs.
SIMON MUSSINA. }

RAFAEL GARCIA CAVAZOS and others }
vs.
CHARLES STILLMAN and others. }

In Chancery.

Translation of the testament of Don Blas Maria de la Garza, filed in the list of the above entitled causes, and to be offered in evidence in both, on the part of the plaintiffs.

In the name of Omnipotent God, and of our Lady the Virgin Mary, conceived without original sin from the first moment of her purest existence, Amen: Be it known and noted to all, that I, Don Blas de la Garza, a native of the town of Camargo, and ensign of the company of militia by the commission of his Majesty, whom may God preserve, for the said town, in this colony of New Santander, and resident of this frontier, in the jurisdiction of the town of Reynosa, legitimate son of Don José Salvador de la Garza, and of Doña Gertudis de la Garza Falcon, now deceased: Being unwell and confined to my bed with a sickness which it has pleased God to send me, being in my perfect natural judgment and understanding, believing, as I do believe, in the mystery of the most Holy Trinity, Father, Son, and Holy Ghost, three distinct persons and one only God, truly omnipotent: I likewise believe in the incarnation of the Divine Word, in the purest womb of Mary, always a Virgin, and in all the other mysteries which our Mother, the Holy Roman Catholic Apostolic Church, holds, believes, and confesses, in the faith and belief whereof I have lived, and declare that I will live a Christian of the Roman Catholic and Apostolic Church, by the inestimable price of the purest blood of our Lord Jesus Christ, fearing as I do that death, which is the common lot of all created beings, may come upon me unawares, and desiring to save my soul, choose and name as my patrons, and advocates, and intercessors before the tribunal of God, where I am to appear to give an account of my life, the most Holy Virgin, the glorious patriarch St. Joseph, the Archangel St. Michael, saint of my name and devotion, and all the saints of the court of Heaven, that when the hour of my death shall leave my body, they may transfer it from this world to the safe harbor of salvation, where I hope they may intercede for it, for it is my desire and prayer that my soul may be saved: I ordain and make this my will in the form and manner following:

1o item. I commend my soul to God, our Lord, who created it, and redeemed it with the inestimable price of his blood, and I beseech his Majesty to raise it to his glory, for which it was created, and my body I commit to the earth, since it was formed from it.

2o item. I order my body to be laid out in the grave clothes prescribed by our seraphic father St. Francis, and that my burial be of the first class, though humble and unostentatious.

3o item. I order that my body be buried in the church of this frontier, in which the pains of death seized me, and near the first step of the altar.

4o item. I declare that I have been married according to the canon of our Mother, the Holy Church, to Doña Francisca Cavazos, by which marriage we had no issue during the entire continuance of our marriage during ten years, and having no forced heir out of it: so I declare, that it may be known.

5o item. I declare that when I contracted the aforesaid marriage with my wife, Da. Francisca Cavazos, I introduced nothing therein on account of my paternal inheritance, being included in the estate of my mother, together with the portion that belonged to her, and at her death, which was a little before or after the year of the death of my father, this property, that is to say, my paternal inheritance, together

with that belonging to her, was still held jointly in consequence of the general power which she had conferred on me, but she having died, as has been stated, a long time ago, I have never been able to obtain from her executors the settlement of their accounts: so I declare, that it may be known.

6o item. That of all the aforesaid property belonging to the succession, in which was included that coming to me on my father's side, I have received since the death of my mother and up to this date, two chests, a mortar, a reliquary of wax, a gold Agnes, and I have received nothing else, as I declare for proof.

7o item. I declare that when I contracted the above stated marriage with my wife, Doña Francisca Cavazos, her guardian delivered to me forty-five mares, six fillies two years old, two jackasses, one gentle horse, three geldings, six colts two years old, fifteen foals and fillies branded, two stallions, two cows, and four bulls: which I declare, that it may be known.

8o item. I declare as my property six droves of mares, five with a jack, and one with a horse, somewhat inferior, and all the others that are found running wild with my branded mark: so I declare, that it may be known.

9o item. I declare as my property fourteen gentle horses and all the others of my brand, together with another little gray horse of the brand of Don Pablo Villareal, which was presented to my wife and has not my brand: which I declare, that it may be known.

10 item. I declare as my property several mules two years old, not branded, which for want of assistance I have not been able to brand: so I declare it, that it may be known.

11o item. I declare as my property thirteen or fourteen young mules, a year old, ear marked, but not branded, which have not been branded for the same reason as above stated: as I declare, that it may be known.

12o item. I declare as my property three she mules, two wild and one broken: I so declare it, that it may be known.

13o item. I declare as my property four jackasses, since though the droves were five in number, one jackass supplies two, and each one of the others has its own: as I declare, that it may be known.

14o item. I declare as my property four jennies and the others with my brand and mark: I declare it, that it may be known.

15o item. I declare that I have in the possession of Francisco Peña four hundred head of goats and sheep, of all classes and ages, with the agreement to pay him three dollars a month for them, in company with his own, which for this consideration may graze in my estate without paying any rent; that it is now about two years since he has had them in his possession: and I so declare it, that it may be known.

16o item. I declare that I have some thirty or forty other head of small stock of all kinds and ages at my residence: I so declare it, that it may appear.

17o item. I declare as my property three yokes of working oxen, five cows from Chihuhuihita, since tho' they are six, I have destined one for my niece, Maria Josefa Cavazos: so I declare it, that it may appear.

18o item. I declare as my property all the stock of my brand and mark lost and running wild, that it may be added to the total amount of my property, as likewise the part of the wild cattle belonging to me, and my part of the estate of Esperitu Santo, in which there is another stock: so I declare it, that it may be known.

19o item. I declare as my property the lands of Sombretillo, since, although their title deeds are among the papers of the succession, they have been adjudged to me by the executors with the condition that I pay four hundred dollars to various creditors of the estate, as I have in fact done: which I declare, that it may be known.

20o item. That, besides the four hundred dollars above stated, I have paid a hundred dollars besides to the other creditors of the estate, and this sum has been paid to me by the aforesaid executors, together with a painting of St. Joseph, which is in the possession of my sister, D'a Xaviera de la Garza, and other small articles, by which I am satisfied in the total amount of five hundred dollars, coming to me from the personal effects of the estate: I declare it, that it may be known.

21o item. I declare as my property a house in the lands that the aforesaid executors have assigned to me as my inheritance, and in it one curved adze, a strait, a plane, a pickaxe, three axes, of which one is in the possession of the servant boy of Don Crisostomo, and the other in the possession of Pedro de la Garza, three crowbars.

22o item. I declare as my property all my wearing apparel at my residence: I so declare it, that it may appear.

23o item. I declare as my property a horse, saddle and bridle, with a leather jacket, shield, lance, musket, a pistol that is in the possession of ensign Juagosa, and a cartridge-box: so I declare it.

24o item. I declare as my property a mare with a mule colt two years old, with the brand of D. Felipe, in a drove of jennies belonging to Don Pedro Prieto, and a young ear-clipped mule belonging to those that were branded last year, all colts of the said mare: so I declare it.

25o item. I declare as my property a wild colt of a horse of D. Pedro Prieto, a cinnamon-colored mare, with a bay mule colt of the brand of D. Juan de la Reinega, which I have not delivered, nor that above stated; Don Domingo Guerra, and lately his stock keeper, saw them sucking the mares: I likewise so declare it, that it may appear.

26 item. I declare that among the drove of pack mules belonging to the widows, there is a mule with the brand of D. Francisco Codentes, which Victoriano Ramires sold him, marked on the cheek with the brand of D. Antonio Ximenes, and this is my own property, and Francisco Treviño and Dionisio Perez know it to be such: I declare it for proof thereof.

27o item. In a drove belonging to Don Pedro Prieto there is a chestnut mare, with a mule colt which is going upon two years, and my brother Don Pedro owes me a female mule from the same mare, two years old going on to three: I so declare it, that it may appear.

28o item. In a drove of the aforesaid Don Pedro, there is a bay mare of the brand of Don Joaquin Gonzales, of Pilon, which is also mine: I so declare it, that it may be known.

29o item. I have in the possession of Reyes two mares, one gentle and the other wild, and I owe him five dollars in payment of a drove which he has delivered to me, accustomed to a particular range, out of wild horses that I had given him for this purpose, and they have had eleven foals: so I declare it, that it may be known.

30 item. In the possession of Don Matias Ramires all the rent that has become due since he took a lease from me to this year; for he is still owing me this rent; the lease will show the amount: so I declare it, that it may be known.

31o item. I declare that D. Matias Ramires, besides what is stated in the above clause, owes me a mare: so I declare, that it may be known.

32o item. Don Juan de la Garza Montemayor owes me rent for the lands upon which he pastures his small stock, which is not less than three thousand head; he will pay me as rent what as a Christian he will say is right: so I declare it, that it may be known.

33o item. Don Domingo Guerra owes me rent for six or seven years that he has lived on my land without a written lease, which shall be recovered from him according to the usual terms: I so declare it, that it may be known.

34o item. I declare that Don Domingo Guerra owes me several beeves that he has killed on my estate, and a stallion that has taken up with a drove of his: so I declare it, that it may be known.

35o item. Don Crisostomo Longoria owes me what he may be willing to give voluntarily for rent for three years that he has kept his stock on my land, and twelve dollars that he was to pay me by D. Margil Cano: so I declare it, that it may be known.

36 item. The chief master, Don José Antonio Cisernos, owes me four beeves that are worth sixteen dollars, and three pack saddles at seven dollars, together twenty-one dollars: so I declare it, that it may be known.

37th item. Nepomuceno Cisernos owes me five beeves, at four dollars, together twenty dollars, as he himself states: so I declare it that it may be known.

38th item. The Ballis, that is, with the exception of the captain, who has paid me, owe me for the cattle that they have taken according to the statement of their managers and stock drivers, and placing to their credit a promissory note, which the priest holds; the rest shall be collected: so I declare, that it may be known.

39th item. A servant, named Julian Guerra, ran off, owing me, on the adjustment of his account, ninety-two dollars: so I declare it, that it may be known.

40th item. And that he may pay them to Dona Rosa. An old salvador from Caderita owes me a pair of mules which I lent him, valued at fourteen dollars: so I declare, that it may be known.

41st item; Juan Perez forty-seven dollars, according to the account book: so I declare, that it may be known.

42d item. Juan Mayo, of Cadereita, owes a pair of mules, valued at fourteen dollars, and a gentle mare, used to work in harness, valued at six dollars: so I declare it, that it may be known.

43d item. The deceased Francisco Quiroa owes me seven mares : so I declare it, for proof thereof.

44th item. Bernado Cano seventeen mares that I lent him on his promise to pay : so I declare it, that it may be known.

45th item. Also there is due me what appears on a list that Don Antonio Gutierrez has presented to me from the persons stated in it, and the sum due from each shall be collected, since it has been given to them on my account : so I declare it, that it may be known.

46 item. Don José Antonio Ramires owes me a jackass and a grown mule : so I declare it, that it may be known.

47 item. The negro, Matias Gonzales, owes me what it may appear I paid for him to the bachelor Don Nicolas Balli : so I declare it, that it may be known.

48 item. Mariano Recio owes me a riding horse, at ten dollars : so I declare it, that it may be known.

49 item. Don Miguel Barrera, of Serralvo, owes me a riding horse, at ten dollars : I so declare it, that it may be known.

50 item. A silversmith, of Monterey, named Juan Antonio Gomez, owes me five mares and five ounces of silver, and a prancing horse, at five dollars : so I declare it, that it may be known.

51 item. I owe six hundred dollars to the revenues of San José de Camargo, and I am also owing, as interest upon this, ninety-one dollars : I so declare it, that it may be known.

52d item. I owe Don Juan de la Reinega what shall appear by his account book : I so declare it, that it may be known. There must also be credited by Don Calisto Ayala, his collecting agent, may appear to have received : so I declare it, that it may be known.

53 item. To Don Juan de la Garza Montemayor & Co. what may appear on their books of accounts, deducting the payments that I have made : so I declare it, that it may be known.

54 item. I owe Don Francisco Mucherra thirty dollars or thereabouts : so I declare it, that it may be known.

55 item. I owe Don José Antonio de Leon thirty dollars, a little more or less.

56 item. The book-keeper of Don Manuel de la Torre fifteen dollars.

57 item. I owe Lieutenant Don Francisco Balli seven dollars.

58 item. I owe Don Miguel Chapa three dollars : so I declare, that it may be known.

59 item. Benito Besendez, three reals ; Don Manuel de la Fuente, I mean Don Andres de la Fuente, twenty-four dollars ; Francisco Salinas, three dollars ; Don Felipe, forty dollars, on a promissory note of mine that he holds ; Don Pedro Ignacia Garcia, forty-three dollars : so I declare it, that it may be known.

60 item. I owe my sister, Doña Xaviera de la Garza, what it may appear to amount to in my schedule of partition : so I declare it, that it may be known.

61 item. I owe Don Cayetano Medrano twenty-seven dollars, four reals, and a mule two years old that I gave him for the Holy Sacrament.

62 item. I declare that I owe to St. Joseph two voluntary masses : I declare it, that it may be known.

63 item. I declare that in the low grounds belonging to the Cantu family, there is with my stock a black mare of the brand of D. Matias Ramires, together with a black mule which has strayed off, and a filly two years old without my brand, all of which I have bought: I declare it, so that it may be known.

64 item. I order that two hundred sheep, I mean goats, that are in my possession, belonging to Don Domingo Guerra, be paid for, together with also the interest for four years: which I declare, that it may be known.

65 item. I owe the aforesaid Don Domingo Guerra a mule colt grown, and another a year old, a pair of new saddle cushions, some arms, and a pair of boots: which I declare it, that it may be known.

66 item. Augustin Lopez owes me a drove of twenty-five mares and a stallion, with besides twenty-five dollars that I paid for him: so I declare it, that it may be known.

67 item. I declare that there is due me from the estate of the deceased Don Marcos Ramires, five she mules and a mare, all grown, which I lent him, which is well known to Antonio de la Garza, alias Mariscal: which I declare, that it may be known.

68 item. Antonio Anda owes me two draught horses: so I declare it, that it may be known.

69 item. I order, that after the debts, funeral, burial, and forced legacies (mandas forzenas) have been paid, that the rest of my property be applied in favor of my wife, Da. Francisca Cavazos, whom I appoint, and whom it is my will should be my heir, to have, possess, and enjoy all that belongs to me, except the fifth, which it is my will to leave for her benefit to my niece, Maria Josefa Cavazos, whom I have brought up from a child: all of which I declare, that it may be known.

70 item. I declare that for the fulfilment of this my testament, that it is my last will to appoint executors to take possession of my property, and I appoint as such, in the first place, the Bachelor Don Nicolas Balli; in the second place, the aforesaid Dona Francisca Cavazos, my wife; and in the third place, Don Blas de la Garza Falcon, whom I charge; as such, my executors and trustees, to keep, comply with, and execute my said testament, according and in the manner prescribed in it by its clauses, within the restrictions of the law; and for all the aforestated pertinent and proper purposes, I confer upon them all my power and authority, as far as may be requisite and necessary; and for its greater validity and binding force, I have asked the commandant of this department to interpose his authority and judicial decree, so far as may be necessary: and I, the aforesaid commandant of this frontier, Don Vincente Lopez de Errera, by the lawful appointment of the commandant of the militia, Don Francisco Balli, chief justice of the town of Reynosa and its district, complying with the obligations of my duty, caused the respectable citizens to be present, for the greater validity of this will, to serve as instrumental witnesses, they being Don Cayetano Giron, Don Calisto Ayala, and Don Blas de la Garza Falcon, all of this neighborhood, who have signed with me, the attesting officer, and my assisting witnesses, with whom I act as examining judge, for the want of any notary, there being none within the limit which the law prescribes, in this new

settlement of our Lady of Refugio, on the fourth day of the month of May, one thousand eight hundred and two. I certify: VINCENTE LOPEZ DE HERRERA, BLAS MARIA DE LA GARZA, JOSE CAYETANO GIRON, CALISTO DE HAYADA, BLAS MARIA FALCON. Assisting witness, Cayetana Medrano. Assisting witness, José Vicente Lopez. On the said day, month, and year, I, the aforesaid chief justice above stated, for the entry of this will on official paper, for the want of a notary, there being none in all this country, have affixed this certificate as proof thereof, which I certify, so far as I can and ought and as the law permits me, reserving the rights of the royal treasury, that, without prejudice to it, this sheet may have the same effect as that of a corresponding stamp, (como el de purte,) since the urgency of the danger of the sickness of the grantor does not permit longer delay; all which I certify and confirm, signing with my assisting witnesses, as an examining tribunal, as has been said. VICENTE LOPEZ DE HERRERA. Assisting witness, José Vicente Lopez. Assisting witness, Cayetano Medrano.

This corresponds with the will which exists in the public archives of this town, under my charge; it is faithfully copied, corrected, and compared, and the citizens Antonio Dominguez, George Cavazos, and Felix de Leon, were instrumental witnesses in seeing it copied. It was copied upon the petition of Don Blas Maria Cavazos, on account of the interested parties; it is comprised in seven stamped leaves, the first and last of the second seals, in conformity with the law; so I certify and sign, with my assisting witnesses, for want of a notary, there being none, according to the law. I certify this the 8th of February, 1833. In testimony of the truth.

J. ANTONIO LEAL DE LEON.

Assisting witness,
MANUEL DE LA VINA.

Assisting witness,
RAFAEL PARIENTES.

The other copy of the above testament is identical, with the exception of the certificate annexed, which is as follows:

This corresponds with its original, which exists in the archives under my charge, which is faithfully and legally copied on ten legal leaves, at the request of Dona Francisca Cavazos, and my assisting witnesses were witnesses seeing it so copied, for want of a notary public. I certify.

BLAS MARIA CAVAZOS.

Ass. wit.,
GUADO. CABAZOS.

Ass. wit.,
RAFAEL ALEMAN.

I certify that the foregoing is a correct translation of the original, made under an order of the court.

WILLIAM G. HALE.

as judge of the first instance, on account of the absence of the first alcalde, order it, and sign before me, of which I certify.

M. GARCIA CAVAZOS.

Before me.

JOAQUIN ARGUELLES,
Notary Public.

On the same day, month, and year, present in my office William G. Hale, I notified him of the preceding act, and, understanding it, he signed before me, which I certify.

WILLIAM G. HALE.
ARGUELLES.

At the same date, I returned to the applicant the foregoing petition for the object expressed in the preceding act. I certify.

ARGUELLES.

MATAMORAS, *October 31, 1849.*

The party applicant having verbally stated that the fourth alcalde excused himself from taking cognizance of this business, on the ground that he is at the present time sick, the applicant will refer to the second constitutional court, in turn, for the object of proceeding according to law. I ordered it, and signed with my assisting witnesses, on account of the occupation of the notary public. I certify.

G. CABAZOS.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

FRAN'CO ARGUELLES.

MATAMORAS, *October 31, 1849.*

Having seen the preceding application and letters rogatory that accompany the same, let what is asked for by them be ordered and complied with, and, when completed, let the original be returned to the party applicant. I, the second constitutional alcalde, in turn, order and sign, with my assisting witnesses, on account of the occupation of the notary public. I certify.

NICOLAS GRISANTE.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

FRAN'CO ARGUELLES.

On the same day, month, and year, present in court the licentiate William Hale, whom I notified of the foregoing act, and, understanding it, he said he heard it, and signed with me and my assisting witnesses, with whom I act. I certify.

GRISANTE.

WILLIAM G. HALE.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

FRAN'CO ARGUELLES.

In the city of Matamoras, on the thirty-first day of the month of October, one thousand eight hundred and forty-nine, the applicant presented as a witness the priest Bachelor Don José Maria Rodriguez, of this parish, to whom I administered the oath in due form, according to his condition, upon which he declared he would state the truth as to what he might know and should be asked; and being interrogated according to the tenor of the questions contained in the interrogatories in relation to the suit for lands on the left bank of the Bravo, which Don Rafael Garcia Cavazos, of this vicinity, prosecutes against Charles Stillman and others, he answered—

To the 1. That he is perfectly well acquainted with the persons, defendants and plaintiffs, mentioned in the title of the interrogatory.

To the 2. A certificate, signed by the priest D. Antonio de la Garza Rodriguez, being exhibited to him: That he knows both the handwriting and signature affixed at the end of the said document, and knows it to be the same which the priest Don Antonio de la Garza Rodriguez used and was accustomed to use in all his attestations.

To the 3. After exhibiting to him the documents to which the interrogatory refers, he answers: That the signature which is at the end, and which follows José Fran'co Recio, he knows to be the same which the aforementioned person used and was accustomed to use in all his public acts.

To the 4. That he is principal curate of this parish, and the archives to which the interrogatory refers are under his care from the year one thousand eight hundred; that Don Blas Maria de la Garza died on the fifteenth of May, one thousand eight hundred and two, and, that it may be annexed to these proceedings, he exhibited a copy of the entry of the burial of the said Garza, signed by him, the deponent.

To the 5. That he knew Doña Francisca Xaviera de la Garza, who died in the year one thousand eight hundred and thirty-three. In compliance with the request of the interrogatory, he delivers, that it may be annexed to these proceedings, a copy of the entry of burial of the aforesaid lady, subscribed by him, the deponent.

To the 6. That he knew Doña Francisca Cavazos, who died in the year one thousand eight hundred and thirty-five, as he knows from her entry of burial, of which he exhibits a faithful and legal copy, signed by him, deponent, that it may be annexed to these proceedings.

To the 7. That Don Ramon Safen married with Doña Maria de los Angeles Garcia in the year one thousand eight hundred and twenty-four, as he knows, by the copy of the entry of marriage which he presents that it may be annexed to these proceedings, and which he, deponent, has signed.

To the 8. That he knows that Don Rafael Garcia Cavazos to Doña Josefa Cavazos; that the marriage was celebrated in the town of Reynosa, and consequently the archives of the marriage must be in the archives of the said town.

To the 9, and last. That all that he can say in favor of the plaintiffs is, that they have been the owners of about sixty sitios of Agostadero on the other bank of the river, and that he has always recognized them as the proprietors of the said tracts; and he answers that

what he has declared is true, upon his oath, and he affirmed and ratified it, signing with me and my assisting witnesses with whom I act. I certify.

GRISANTE.

BR. JOSE MA. ROD'Z.

Ass'a,
LEONARDO ESPINOSA.

Ass'a.
FRAN'CO ARGUELLES.

On the same day, month, and year the applicant, being present in court, stated that it is necessary, according to the practice of the court that he represents, that the proceedings which have been had in virtue of the interrogatories in the suit which Don Rafael Garcia Cavazos and others prosecute against Simon Mussina be kept separate, he requests this of the court; this he stated and signed with me and my assisting witnesses. I certify.

GRISANTE.

WILLIAM G. HALE.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
FRAN'CO ARGUELLES.

MATAMORAS, *October 31, 1851.*

In consequence of the foregoing statement, let its request be complied with. I order it, and sign with my assisting witnesses with whom I act. I certify.

GRISANTE.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
FRAN'CO ARGUELLES.

At the same time I notified the licentiate, William G. Hale, of the foregoing order, who, being aware of its tenor, signed the present with me and my assisting witnesses. I certify.

GRISANTE.

WILLIAM G. HALE.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
FRAN'CO ARGUELLES.

At the same time, the present proceedings being concluded, the originals under cover and sealed, as has been ordered, were delivered to Licentiate William G. Hale, and as a proof thereof, I give the present certificate, which I sign with my assisting witnesses. I certify.

GRISANTE.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
FRAN'CO ARGUELLES.

On the envelope.

To the district court of the United States of America for the district of Texas.

Contains a letter rogatory as to the suit about lands between Don Rafael Garcia Cavazos against Charles Stillman and others, executed (diligenciada) by the second court of the first instance of Matamoras.

I certify that the foregoing is a correct translation of the original made by the order of the court.

WILLIAM G. HALE.

Read at the hearing by the complainants.

JAMES LOVE, *Clerk.*

CONSULATE OF THE UNITED STATES OF AMERICA,
Matamoras, Mexico.

Thomas W. Slemmons, consul of the United States of America for the port of Matamoras, do hereby certify that Joaquin Arguelles, who attests the annexed document under his own proper signature, to me, the said consul, well known, is now, and was at the time of signing the same, a notary public in and for the port of Matamoras, and that to all his acts as such full faith and credit are given in and out of judicature.

In testimony whereof, I hereunto subscribe my name and affix the seal of my office this 16th day of May, 1849.

[SEAL.]

THOMAS W. SLEMONS.

CONSULATE OF THE UNITED STATES OF AMERICA,
Matamoras, Mexico.

I, Thomas W. Slemmons, consul of the United States of America for the port of Matamoras, do hereby certify that Joaquin Arguelles, who attests the annexed documents under his own proper signature, is to me, the said consul, well known, and is now, and was at the time of signing the same, a notary public in and for the city and port of Matamoras, and that to all his acts as such full faith and credit are given in and out of judicature.

In testimony whereof, I hereunto subscribe my name and affix the seal of my office this 16th day of May, 1849.

[SEAL.]

THOMAS W. SLEMONS.

CONSULATE OF THE U. S. A.,
Matamoras.

I, Thomas W. Slemmons, consul of the United States of America for the port of Matamoras, do hereby certify that Joaquin Arguelles, who attests the annexed document under his own proper signature, to me the said consul well known, is now, and was at the time of signing the same, a notary public in and for the city and port of Matamoras, and that to all his acts as such full faith and credit are given in and out of judicature.

In testimony whereof I hereunto subscribe my name and affix the seal of my office this 16th day of May, 1849.

THOMAS W. SLEMONS.

Copies of entries.

No. 10.

The within documents were offered in evidence by the complainants at the hearing, and objected to by defendants as incompetent evidence. It was specially objected that the duty to keep such registers by law is not shown; that the fact that such registers were properly kept is not shown; that the identity of the persons named therein is not shown; that said *copy* is not proved in any sufficient or legal manner to make them evidence in this court. All which objections were overruled by the court, and the same read in evidence by complainants.

JAMES LOVE, *Clerk.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

I, James Love, clerk of the district court of the United States for the district of Texas, certify that the foregoing five pages contain a true and perfect copy of the document No. 10 originally filed in the chancery case No. 41, Rafael Garcia Cavazos *et als.* vs. Charles Stillman *et als.*, which original is withdrawn by leave of the court, and this copy filed in its stead.

In testimony whereof I hereunto set my hand and affix the seal of said court, at Galveston, this sixth day of August, in the year of our Lord one thousand eight hundred and fifty-four.

[SEAL.]

JAMES LOVE, *Clerk.**Translation.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

In chancery.

Translation of entries in the parish registers.

I, the priest, José Francisco Recio, curate of the town of Camargo and its jurisdiction—

Certify, in all form of law, that the book No. 2, which contains the entry of marriages celebrated from the first of January, 1796, to the first of January, 1836, bound in white leather, and on the forty-second leaf, No. 22, on the first page is an entry which is literally as follows:

[In the margin, No. 22, Don Joseph Anto. Lopez Prieto, and Da. Maria Jacinta Olivares, Spaniards of this town.]

In this town of Santa Ana de Camargo, on the first of August,

one thousand and three, the preliminaries of the marriage being first had as the Holy Council of Trent provides: I, Br. Pedro Maldonado y Zapata, as minister of this town in this Holy Parochial Church under my charge, married at the proper time in *in facie ecclesie*, Don Joseph Antonio Lopez Prieto, Spaniard by origin, and resident of this town, legitimate son of Don Pedro Lopez Prieto and Doña Maria Margarita de la Garza, (the latter now deceased,) to Doña Maria Jacinta Olivares, a Spaniard by birth, and a resident of this town, legitimate daughter of Don Alexander de Olivares, and of Doña Maria Francisca Treviño, now deceased, who had been announced in this Holy Parochial Church under my charge on the three feast days, *inter Missarium Solemnia*, as they were so announced the first time on the twenty-fourth day of the past month of June, the solemnity of the nativity of St. John the Baptist; the second time on the twenty-sixth, the fourth Sunday after Pentecost; and the third time on the twenty-ninth day, the feast of the holy apostles, St. Peter and St. Paul; on which publication no impediment appeared to oppose the celebration of the marriage; the sponsors were the Captain Don Joseph Gozeascochea and his wife, Dona Jabiera de la Garza, resident citizens of this town; the witnesses of the celebration of the marriage were Don Tomas Gutierrez, and Don José Maria Asevedo, besides the other persons who were present at the Holy Sacrifice of the Mass; and that it may appear, I have signed it in this said town on the said day, month, and year, *ut supra*. BR. PEDRO MALDONADO Y ZAPATA.

Which entry is faithfully and legally copied from its original, which exists in the archives under my charge in the book, leaf and number before mentioned, to which I refer, authorizing it on this paper, there being none of the corresponding seal in the administration of this department; and I give these presents for the purposes that may suit the party interested, which I sign in the town of Camargo, this the thirtieth of June, one thousand eight hundred and fifty.

J. FRAN'CO RECIO.

I certify that the foregoing contains a correct translation of the original, made under the order of the court.

WILLIAM G. HALE.

I, the Priest José Francisco Recio, curate of the town of Camargo and its jurisdiction—

Certify in full form of law, that among the books which the archives of this parish contain, there is one bound in red leather, which, on the fifty-fifth page, first leaf, contains an entry which is literally as follows:

[No. 12, Don Pedro Lopez Prieto to Da. Anto. Margarita de la Garza, Spaniards of this town.]

On the twenty-eighth day of the month of July, one thousand seven hundred and eighty-three, I, Br. Francisco Villiendez, priest and missionary of this mission, the preliminaries of marriage provided by the Holy Council of Trent having proceeded, and the banns having been proclaimed on three feast days, *inter Messarium Solemnia*, which days

were the first Easter Sunday, the twentieth of April, and the second Monday after Easter, and the third Tuesday after Easter, the twenty-first of April, and none of the impediments prescribed by law having appeared, the parties having first been examined in the Christian doctrine, I married *in facie ecclesie* Don Pedro Lopez Pinto, a Spaniard by origin, of El Valle de Guojuco, resident citizen of this town, having remained for two years in these parts; lawful son of Don Pedro José Lopez Prieto and Doña Aña Maria Guerra to Doña Antonia Margarita de la Garza, a Spaniard by origin of this town, lawful daughter of Don José Salvador de la Garza and of Doña Maria Gertudis de la Garza Falcon; Don José de la Garza Falcon and Doña Maria Leonor Mardez were their sponsors, and Don Ramon de Anauldes and Don Ignacio Anastasio de Ayalo were witnesses of this marriage; and in testimony whereof I have signed on the said day, month, and year, *ut supra*. BA. FRANCISCO VILLIENDEZ.

Which entry is faithfully and legally copied from its original, which exists in the archives under my charge, in the book and leaf already mentioned, to which I refer. Ecclesiastical Court of the town of Camargo, May 4, 1849.

I, the Priest Don José de la Garza Rodriguez, curate and ecclesiastical judge of this city and port of Matamoras—

Certify that in the second book of marriages, on the reverse of folio 31, there is an entry of the following tenor:

On the 1st of March, 1824, I, the said curate, married, *in facie ecclesie*, Don Ramon Safen, by origin of the town of Caultes, in the kingdom of France, and resident of this town of Refugio for three years, legitimate son of D. Antonio Safen and of Doña Catrina Baibarron, now deceased, to Doña Maria de los Angeles Garcia, a native and resident of this congregation, legitimate son of Don Rafael Garcia and of Doña Guadalupe Cisernes, and having received the dispensation of "Ultramar" and "Stranger," and likewise of the publications and bans which were to be made in this parish, from the provincial Don José Leon Love, as appears by his order; Don Pedro Garcia and Catarina Trevino, Calletano Medrano and José Maria Gomez, were sponsors; and I, Bach'r Nicolai Balli, have signed it.

Which entry is faithfully and legally copied from the original, which agrees with it in the book and folio already mentioned. Matamoras, October 30, 1849.

BACH. JOSÉ M'A ROD'Z.

I certify that the foregoing contains a correct translation of the original made under the order of the court.

WILLIAM G. HALE.

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS *et als.* }
vs.
 SIMON MUSSINA. }

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

Translations of copies of entries of the parish registers in the towns of Camargo and Reynosa, and of Matamoras, annexed to depositions taken in the above causes.

I, Antonio de la Garza Rodriguez, now being the curate of the town of Reynosa and its jurisdiction, certify, so far as I can, ought, and am allowed by law, that among the registers (*libros y partidas*) of marriages belonging to these ecclesiastical archives under my charge, there is one bound in red leather, and in it an entry of the following tenor:

[Of the town Blas Ma. de la Garza to D'a M'a Francisca Cabazos, Spaniards.]

In this town of our Lady of Guadalupe of Reynosa, on the twenty-fifth day of the month of July of this present year, one thousand seven hundred and ninety-two, the preliminaries of marriage provided by the Holy Council of Trent having preceded, I, Brother Pedro Maldo. y Zapata, as priest of this town, in this Holy Catholic Church, under my charge, and at the proper time married (*casé y velé*) in *facie ecclesiae*, D. Blas Maria de la Garza, a Spaniard, originally of the town of Camargo, the lawful son, by lawful marriage, of D. J. Salvador de la Garza and of D'a M'a Gertudis de la Garza Falcon, both now deceased, to Dona Francisca Cavazos, a Spaniard, a native and resident of this town of Reynosa, the lawful daughter, by lawful marriage, of D. J. Narciso Cabazos and Dona Maria Ignacia de Guajosa, the latter now deceased, who had been published in this holy parish church under my charge, upon feast days *inter missararum solemnias*, which occasions were on the eighth day of the present month of July, the sixth Sunday after Pentecost, and the feast of St. Isabel, the Queen of Portugal; second, on the fifteenth day, the seventh day after Pentecost; and third, on the twenty-second day, the eighth Sunday after Pentecost, and on the feast of St. Mary Magdalen, on which announcements no impediment offered, nor on those given at my request. In the town of our Lady, Santa Anna de Camargo, D. J. Ralli and his wife, Dona M'a Ignacia Trevino, Spaniards, and residents of this town, were sponsors; J. Damian de la Garza, y Tomas Trevino, José Matias Gomez, notary public, residents of this town, were witnesses of the celebration of the marriage, besides the

others who were present at the holy sacrifice of the Mass; and, that it may appear, I have signed this in the said city, on the day, month, and year, ut supra.

BR. PEDRO MALDO. Y ZAPATA.

Which entry, faithfully and legally copied, agrees with its original, to which I refer. Town of Reynosa, May 2, 1849.

Priest ANTONIO DE LA GARZA Y RODRIGUEZ.

Then follows a certificate of the curate of Matamoras, one from the notary public, and one from the American consul.

I, the Priest José Francisco Recio, curate of the town of Camargo and its jurisdiction, certify, in all form of law, that among the books comprised in the archives of this parish there is one bound in red leather, in which, and on the first page of leaf 68, there is an entry of a marriage which is literally as follows:

[In the margin, N. 2, D. José Gozeascochea, Spaniard, to Dona Francisca Xaviera de la Garza, Spaniard.]

On the seventeenth day of the month of February, one thousand seven hundred and eighty-seven, I, Br. Francisco Villuendas, curate in encomuendeien, priest and ecclesiastical judge of this town of Camargo and its jurisdiction, married, in facie ecclesiæ, D. José de Gozeascochea, a Spaniard, native of the kingdom of Castile, lordship of Biscay, town of Gugueto, bishopric (see) of Calaharra and Calrada, only son of Don José Manuel de Gozeascochea and Dona Catarina Gozeascochea, Malas Echeverria, and a resident of this jurisdiction, to Dona Francisca Javiera de la Garza, a Spaniard, a native and resident of this town, lawful daughter of D. José Salvador de la Garza, deceased, and of Dona Maria Gertudis de la Garza Falcon, which marriage I celebrated, the preliminary proceedings for it having been previously had, according to the requirements of the Holy Council of Trent, and they have been published on three consecutive days, intermissarium solemnia, which occasions were, first, on the 2d of February, Feast of the Purification of our Lady; second, on the fourth of the same month, Septuagesima Sunday; and the third, the 11th of the same month, Sexagesima Sunday, at which no impediment appeared. Captain Don José de la Garza Falcon and his wife, Dona Maria Leonor Mendez, were sponsors of this marriage; witnesses to its celebration, Don José Maria Garcia, D. José Lorenzo Trevino, and D. Matias Longoria, all of this neighborhood; and, that it may appear, I have signed this.

BR. FRAN'CO VILLUENDA.

Which entry is truly and legally copied from its original, which exists in the archives under my charge, in the book, leaf, and number aforesaid, to which I refer. Ecclesiastical Tribunal of the town of Camargo, May 4, 1849.

J. FRANCISCO RECIO.

Then follows a certificate of the curate of Matamoras, one from the notary public, and one from the American consul at that city.

[Entry of the burial of D. Blas Maria de la Garza.]

I, the Priest D. José Ma. Rodriguez, proper curate and ecclesiastical judge of this city and port of Matamoras, certify that in the first book of burials, on the reverse of the ninth leaf, there is an entry of the following tenor:

On the 15th of May, 1802, I, the Bachelor D. Nicolas Balli, gave ecclesiastical burial with a funeral of the first class (entierro Mayor) at fifteen dollars to D. Blas Maria de la Garza, formerly the husband of Dona Francisca Cabazos; he received the Holy Sacrament, made his will, leaving only the necessary legacies, (mandas fersosas,) and died of fever; and, that it may appear, I have signed this.

BACH'R NICOLAS BALLI.

Which entry is faithfully and legally copied from the original, which agrees with it, in the book and folio already mentioned. Matamoras, October 30, 1849.

B'R JOSE MA. RODRIGUEZ.

[Entry of the burial of Dona Francisca Xaviera Garza.]

I, the Priest D. José Maria Rodriguez, proper curate and ecclesiastical judge of this city and port of Matamoras, certify that in the third book of burials, on folio 94, there is an entry of the following tenor:

In the town of Matamoras on the 20th of August, 1833, the priest D. Manuel de la Garza, my substitute, gave ecclesiastical burial, with a funeral of the second class, (entierra menor,) to Dona Francisca Xaviera Garza; she received the extreme unction, and died of the cholera; as evidence whereof, I have signed this.

JOSE M'A RODRIGUEZ.

Which entry is faithfully and legally copied from the original which agrees with it in the book and folio already mentioned. Matamoras, October 30, 1849.

B'R JOSE M'A RODRIGUEZ.

[Entry of the burial of Dona Francisca Cabazos.]

I, the Priest Don José Maria Rodriguez, proper curate and ecclesiastical judge of this city and port of Matamoras, certify that in the third book of burials, on folio 102, there is an entry of the following tenor:

In the city of Matamoras on the 6th of March, 1839, the priest Don Juan Cardenas, my substitute, gave ecclesiastical burial in the burying ground of this Parish to Dona Francisca Cavazos, an adult, a funeral of the second class for twenty reals; she received the extreme unction, and died of fever; for proof whereof, I have signed this.

JOSE M'A RODRIGUEZ.

Which entry is faithfully and legally copied from the original, which agrees with it, in the book and folio already mentioned. Matamoras, October 30, 1849.

B'R JOSE M'A RODRIGUEZ.

I certify that the foregoing is a correct translation of the original on file in the second of the above entitled causes, made by me in accordance with the order of the court.

WILLIAM G. HALE.

23.

Depositions from Matamoras

of D. Domingo Guerra, D. Tomas Guerra, D. José Maria Madrano, D. José Maria Villareal, D. Vicente Lira.

The within depositions were offered in evidence by the complainants at the hearing of this cause, and objected to by defendants as incompetent evidence.

The same objections were made to said depositions respectively as were made to and endorsed on the depositions of Carceres, Cardenas, and Molano, taken at Victoria, and heretofore admitted as evidence in this cause, all which objections were overruled by the court, and said depositions were read in evidence by complainants.

JAMES LOVE, *Clerk.*

Translation.

UNITED STATES OF AMERICA,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

Translation of the proceedings before the court of the first instance in the city of Matamoras, in taking the depositions of Don Domingo Guerra, Don Thomas Guerra, D. José Maria Madrano, D. José Maria Villareal, D. Vicente Lira, on the part of the complainants.

On the outside cover.

MATAMORAS, *December 13, 1850.*

Testimony of witnesses taken in compliance with the letter rogatory issued by the district court of the United States of America for the district of Texas.

Court of the first instance with assisting witnesses.

MATAMORAS, *December 13, 1850.*

In consideration of the letter rogatory presented by Don Juan Treanor, attorney of Don Rafael Garcia Cavazos, Dona Josefa Cavazos, wife of the aforesaid, and Dona Estafana Gozeascochea de Cortina, which letter has been issued by the district court of the United States of America for the district of Texas, on the thirty-first of the month of October, one thousand eight hundred and fifty, in the city of Galveston: Let what is requested in it be observed, complied with, and executed by this court of the first instance, taking in consequence thereof the depositions of the witnesses whom the aforesaid Senor Treanor may present, according to the tenor of the particular interrogatories addressed to them in the set annexed to the aforesaid letter; and it being completed, let it be returned in the original to the aforesaid Senor Treanor, that he may remit it to the court making the application. I, the citizen Matias Longoria, third constitutional alcalde, judge of the first instance in turn, on account of the sickness of the first and second alcaldes, have so ordered and signed, acting with assisting witnesses, on account of the occupation of the notary public. I certify

MATIAS LONGORIA.

Assisting witnesses—

LEONARDO ESPINOSA,
LUIS L. DE LARA.

On the same day, month, and year, Don Juan Treanor, being present in court, was informed of the foregoing order, and signed with me and my assisting witnesses. I certify.

LONGORIA.

Assisting witnesses—

LEONARDO ESPINOSA,
LUIS L. DE LARA.

In the aforesaid city, on the same day, month, and year, Don Juan Treanor presented as a witness, for his examination, Don Domingo Guerra, to whom I, the judge, administered the oath, which he took in the form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked; and, being interrogated according to the tenor of the interrogatories addressed to him in the set annexed to the letter rogatory, which is in the course of execution; he answered:

To the 1st: That he knows the complainants, and of the defendants he knows only Charles Stillman Doña Maria de los Angeles Garcia, Safen de Tarneva, Don Ramon Safen, Doña Felciana de Tigerina, and Don José Manuel Prieto, remarking that he only knew Mr. Stillman by sight; and he answers

To the 2d: That he has already said, in answering the foregoing interrogatory, that he knows Dona Maria de los Angeles Garcia; and deponent knows that the said lady married for the first time Don Ramon Safen, and the second time Don Constantina de Tarneva; that

he also knows that in her first marriage she had two children, who are Don Ramon and Dona Angela Safen, of whom the first is living, and the second died, leaving no children; and he answers

To the 3d: That he knows by public reputation that Dona Estafana Gozeascochea married for the first time Don Francisco Cavazos, with which person deponent was not acquainted, being quite a youth when he was married to the aforesaid Dona Estafana; that the said lady was married the second time to Don Trinidad Cortinas, with which person deponent was acquainted, but does not know the time of his death; and he answers

To the 4th: That Dona Feliciana Gozeascochea married Don Juan Tigerina, which person is dead, but deponent does not know the time that has elapsed from his death to the present date.

To the 5th: That Don Constantino de Tarneva, to which person the interrogatory refers, is not living at the present time, he having died; and he answers

To the 6th and last: That he knows nothing more than what he has said, and that he can state nothing further for the benefit of the defendants and complainants; this being the truth upon his oath, he confirms and ratifies it. Not having anything to add or to subtract from this statement, it was read to him and he said it was faithfully written; that he is a native and resident of this city, farmer, and forty-five years of age; and he signed with me and my assisting witnesses, with whom I act for the reason aforesaid. I certify.

LONGORIA.

DOMINGO GUERRA.

Assisting witnesses—

LEONARDO ESPINOSA,

LUIS L. DE LARA.

In the aforesaid city, on the same day, month and year, Don Juan Treanor presented, to be examined as a witness, Don Tomas Guerra, to whom I, the judge, administered the oath, which he took in the form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked, and being interrogated according to the tenor of the interrogatories addressed to him in the annexed letter rogatory, which is in the course of execution, he answered

To the 1st: That he is perfectly well acquainted with the complainants, and of the defendants he only knows Charles Stillman, Dona Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Dona Feliciana de Tigerina, and Don José Manuel Prieto, remarking that he only knows Mr. Stillman by sight: and he answers

To the 2d: That he has already said, in answering the foregoing interrogatory, that he knows Dona Maria de los Angeles Garcia; that deponent knows that the said lady married for the first time the Senor Safen, and the second time, Don Constantino de Tarneva; that he also knows that in the first marriage she had two children, Don Ramon and Dona Angela Safen, of whom the first is living, but the second died after her marriage, but deponent does not know that she left children: and he answers

To the 3d : That Dona Estafana Gozeascochea married for the first time Don Francisco Cavazos ; for the second, Don Trinidad Cortina, which person is dead, but deponent does not know what time has elapsed since his death : and he answers

To the 4th : That Dona Feliciana married Don Juan Tigerina, which person is dead, but deponent does not know what time has elapsed since his death ; and he answers

To the 5th : That Don Constantino Tarneva is not living, being dead : and he answers

To the 6th and last : That he knows no more that can be of interest to the complainants or defendants ; that what he has declared is the truth, upon his oath ; that he confirms and ratifies it, having nothing to add or to subtract from it ; it was read to him, and he said it was faithfully written ; that he is a native and citizen of this city, married, a farmer, and fifty-eight years of age ; not signing, as he stated he knew not how to do so, I, the judge, have done so, with my assisting witnesses. I certify.

LONGORIA.

Assisting witnesses—

LEONARDO ESPINOSA,
LUIS L. DE LARA.

In the aforesaid city, on the fourteenth day of the said month and year, Don Juan Treanor presented to be examined as a witness, Don José Maria Medrano, to whom I, the judge, administered the oath, which he took in the form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked, and being interrogated according to the tenor of the interrogatories contained in the set annexed to the letter rogatory, which is in the course of execution : he answered

To the 1st : That he knows the complainants, and of the defendants he only knows Don Carlos Stillman, Dona Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Dona Feliciana de Tigerina. and Don José Manuel Prieto : and he answers

To the 2d : That he has already said, in answering the foregoing interrogatory, that he is acquainted with Dona Maria de los Angeles Garcia ; and deponent knows that said lady married for the first time Don Ramon Safen, and the second time Don Constantino de Tarneva ; that the said lady had by her first marriage her two children, Don Ramon and Dona Angela Safen, of whom the first is living, but the second died after marriage, but he does not know that she left any children ; and he answers

To the 3d : That Dona Estafana Gozeascochea married for the first time a Cavazos, whose name defendant does not know, and whom he was also unacquainted with ; that the said lady married the second time the Senor Cortinas, with whom deponent was acquainted, but does not know his name ; that he knows he is dead, but he does not know what time has elapsed since his death : and he answers

To the 4th : That Dona Feliciana Gozeascochea married Don Juan Tigerina, who is dead, deponent not recollecting the time that has elapsed since his death : and he answers

To the 5th : That the person to whom the interrogatory refers is not living at the present time : and he answers

To the 6th and last : That he knows no more than what he has stated, this being the truth upon his oath, and he confirmed and ratified it, having nothing to add or to take from it ; it was read to him, and he said it was faithfully written ; that he is a native and citizen of this city, married, by occupation a merchant, thirty-seven years of age ; and he signed with me and my assisting witnesses, with whom I act for the reason aforesaid. I certify.

LONGORIA.

JE. MA. MEDRANO.

Assisting witnesses—

LEONARDO ESPINOSA.

LUIS L. DE LARA.

On the same day, month and year, and in the aforesaid city, Don Juan Treanor presented to be examined as a witness, Don José Maria Villreal, to whom I, the judge, administered the oath, which he took in the form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked, and being interrogated according to the tenor of the interrogatory contained in the set annexed to the Letter Rogatory, which is in the course of execution : he answered

To the 1st : That he is acquainted with the complainants, and of the defendants he only knew Charles Stillman, Dona Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Dona Feliciana de Tigerina, and Don José Manuel Prieto ; and he answers

To the 2d : That he has already stated in answering the foregoing interrogatory, that he knows Dona Maria de los Angeles Garcia ; that the said lady married, for the first time, Don Ramon Safen, and the second time, Don Constantino de Tarneva ; that he knows that the said lady had, in her first marriage, her two children, Don Ramon and Dona Angela Safen, of whom the first is living and the second has died, but deponent does not know whether she left any children ; and he answers

To the 3d : That Dona Estafana Gozeascochea married, for the first time, Don Francisco Cavazos, deponent's uncle, and the second time, Don Trinidad Cortinas, who is dead, but deponent does not know the time that has elapsed since his death ; and he answers

To the 4th : That Dona Feliciana Gozeascochea married Don Juan Tigerina, who is dead, but deponent does not know the time that has elapsed since his death ; and he answers

To the 5th : That the person to whom this interrogatory refers is not living ; and he answers

To the 6th and last : That he knows nothing else that can be a benefit to complainants and defendants besides what he has stated, which is the truth, upon his oath, and he confirmed and ratified it, having nothing to add or to take from it. That he is a native and resident of this city, married, a stock raiser, and forty-eight years of age. His deposition was read to him, and he signed with me and my assisting witnesses with whom I act for the reason aforesaid. I cer-

tify. Corrected—complainants—first—correct—erased—and the last—not correct.

LONGORIA.

JOSE M'A VILLAREAL.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

In the aforesaid city, on the fourteenth day of the said month and year, Don Juan Treanor having requested, on account of Don Vicenté Lira, one of the witnesses, being sick, the Court shall proceed to his house in order to take his deposition. I, the Judge, accompanied by my assisting witnesses, repaired to the said house, and being in it, the aforesaid Don Vincenté Lira being present, I administered to him the oath, which he took in the form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked, and being interrogated according to the tenor of the interrogatories contained in the annexed letter rogatory which is in the course of execution, he answered

To the 1st: That he is acquainted with the complainants, and of the defendants he only knows Charles Stillman, Dona Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Dona Feliciana de Tigerina, and Don José Manuel Prieto; and he answers

To the 2d: That he has already stated in his foregoing answer that he knows Dona Maria de los Angeles Garcia; that he knows said lady married for the first time Don Ramon Safen, for the second time Don Constantino Tarneva. That the said lady had in her first marriage her two children, Don Ramon and Dona Angela Safen; of which the first is living and the second died, having no children; and he answers

To the 3d: That Dona Estafana Gozeascochea married for the first time Don Francisco Cavazos, and the second time Don Trinidad Cortinas. That this person is not living, and deponent does not know how long it is since his death; and he answers

To the 4th: That Dona Felicina Gozeascochea married Don Juan Tigerina, who is dead, the deponent not knowing the time that has elapsed since his death; and he answers

To the 5th: That Don Constantino de Tarneva is not living at the present time; and he answers

To the 6th and last: That he knows nothing more that can benefit the complainants and defendants, and has nothing more to add to his statement, which he ratifies, and says that it contains the truth upon his oath; that he is a native of Monterey, in the State of Nuevo Leon, and a citizen of this city, married, a merchant, and fifty years of age. His deposition was read to him, and he said it was faithfully written, and did not sign on account of the sickness with which he was suffering preventing him using his right hand. I, the Judge, have done so with my assisting witnesses for the reason aforesaid. I certify. Erased—not to know—not correct.

LONGORIA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

On the same day, month, and year, Don Juan Treanor being present in Court, stated that, having no other witnesses to present for examination in these proceedings, he requested the Court to conclude them in consequence thereof, and in fulfilment of the order with which they commenced, I, the Judge, have ordered, that considering the said proceedings as concluded as the party asks, they be delivered to him in the original and under an envelope, sealed up, that he may remit them to the Court making the application, the letter rogatory which has occasioned them, accompanying them; so it was done, in this act, and the proceedings referred to consist of nine legal leaves, and in testimony thereof I give the present certificate, which I sign with my assisting witnesses with whom I act. I certify.

LONGOIA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

Fees for these proceedings, including the sealed paper, thirteen dollars, seven reales. So I swear.

(A Rubric.)

On the envelope.

To the District Court of the United States of America for the District of Texas.

From the Court of the First Instance, Matamoras, Mexico.

I certify that the foregoing is a correct translation of the original, made by order of the Court.

WILLIAM G. HALE.

24.

Depositions from Matamoras of Dona Maria Jacinta Olivares, Don Tomas Guerra, and Don Domingo Guerra.

The within depositions were offered as evidence by the complainants at the hearing of the cause, and objected to by the defendants as incompetent evidence. The same special objections were taken to their admissibility, as were made to and endorsed upon the depositions of Carceres, Cardenas, and Molano, taken at Victoria, and heretofore admitted in evidence in this cause, and specially that there was no notice to defendant of the filing of the interrogatories. The said objections were overruled by the Court, and the depositions were read in evidence by the complainants.

JAMES LOVE, *Clerk*

Translation.

UNITED STATES OF AMERICA,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs.

CHARLES STILLMAN and others. }

Translation of the proceedings before the court of the first instance of the city of Matamoras in taking the depositions of Doña Maria Jacinta Olivares, D. Thomas Guerra, D. Domingo Guerra, on the part of the complainants.

On the outside cover.

MATAMORAS, *December 13, 1850.*

Testimony of witnesses taken in compliance with the letter rogatory issued by the district court of the United States of America for the district of Texas.

Court of the first instance with assisting witnesses.

MATAMORAS, *December 13, 1850.*

In consideration of the letter rogatory presented by Don Juan Treanor, attorney in fact of Don Rafael Garcia Cavazos, Dona Maria Josefa Cavazos, wife of the aforesaid, and Dona Estafana Gozeascochea de Cortina, the said letter having been issued by the district court of the United States of America for the district of Texas on the thirty-first day of the month of October, one thousand eight hundred and fifty, in the city of Galveston, let what is requested in it be observed, complied with, and executed by this court of the first instance, taking in consequence thereof the depositions of the witnesses which the aforesaid Senor Treanor may present, according to the tenor of the particular interrogatories addressed to them in the set annexed to the letter aforesaid, and being concluded, let it be returned in the original to the aforesaid Senor Treanor, that he may remit it to the court making the application. I, the citizen Matias Longoria, third constitutional alcalde, judge of the first instance in turn, on account of the sickness of the first and second alcaldes, have so ordered and signed, acting with assisting witnesses, on account of the occupation of the notary public. I certify.

MATIAS LONGORIA.

Ass'a,
 LEONARDO ESPINOSA.

Ass'a,
 LUIS L. DE LARA.

On the same day, month, and year, I notified Don Juan Treanor of the foregoing order, and having heard it, he signed with me and my assisting witnesses. I certify.

LONGORIA.
 JUAN TREANOR.

Ass. wit.,
 LEONARDO ESPINOSA.

Ass. wit.,
 LUIS L. DE LARA.

In the said city, on the thirteenth day of the said month and year, Don Juan Treanor presented as witness, for her examination, the Senora Dona Maria Jacinta de Olivares, to whom I, the judge, administered the oath, which she took in the form prescribed by law, upon which she declared she would state the truth as to what she might know and should be asked; and being so asked according to the tenor of the particular interrogatories addressed to her in the set annexed to the letter rogatory, which is to be executed, she answered

To the 1st. That she is acquainted by intimacy and intercourse with the complainants, and of the defendants she only knows Dona Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Dona Feliciana de Tigerina, and Don José Manuel Prieto: and she answers

To the 2d. That deponent was married for the first time to Don Antonio Prieto, and the second time to Reynaldo Trevino: and she answers

To the 3d. That by her first marriage she had four children, two boys and two girls, whose names are José Pablo Prieto, José Ynino Prieto, Mara Louisa Prieto, and Mara Louisa Prieto also; that her aforesaid four children have died, deponent not recollecting the dates of their death, with the exception that the last who died was Pablo, and he died in the year one thousand eight hundred and twenty-five: and she answers

To the 4th. That she has already said, in answering the first interrogatory, that she is acquainted with Dona Angela Garcia (I mean Maria de los Angeles Garcia); that deponent knows that the said lady married for the first time Don Ramon Safen, and for the second time Don Constantino de Tarneva; that she also knows that in the first marriage she had her two children, named Don Ramon Safen and Dona Angela Safen, and finally that the aforesaid daughter died, being married and having left no issue or children: and she answers

To the 5th, and last. That she knows no more than what she has deposed, all of which is the truth upon her oath, and she confirms and ratifies it, having nothing to add or to subtract from it: it was read to her, and she said it was well and faithfully written, stating that she was a native of Camargo and resident of this city, and more than sixty years of age. She did not sign, stating that she knows not how to do so. I, the judge, have done so, with my assisting witnesses. I certify.

LONGORIA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

In the aforesaid city of Matamoras, on the thirteenth day of the said month and year, Don Juan Treanor presented for his examination the witness Don Thomas Guerra, to whom the judge administered the oath, which he took in the form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked; and being interrogated according to the tenor of the interrogatories included in the set annexed to the letter rogatory which is to be executed, he answered

To the 1st. That he is perfectly well acquainted with the complainants, and of the defendants he only knows Charles Stillman, Dona Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Dona Feliciana de Tigerina, and Don José Manuel Prieto, remarking that he only knows the Senor Stillman by sight: and he answered

To the 2d. That the Senora Jacinta Olivares, to whom the interrogatory refers, married for the first time Don Antonio Prieto, and the second time Don Reynaldo Trevino: and he answered

To the 3d. That although the deponent knows that the said lady had children by her first marriage, deponent did not know them, and he does not know whether they died or are living: and he answers

To the 4th. That he has already said, in his answer to the first interrogatory, that he knows the Senora Dona Maria de los Angeles Garcia, and that he knows that the said lady married Don Ramon Safen, and the second time Don Constantino de Tarneva: he knows that the said lady had by her first marriage her two children, Don Ramon Safen and Dona Angela Safen, of which the first is living and the second died since her marriage, leaving no children: and he answered

To the 5th, and last. That he knows nothing more than what he has declared, it all being the truth upon his oath, and therefore he ratifies, having nothing to add or subtract: it was read to him, and he said it was faithfully written, stating that he was a native and citizen of this city, married, farmer, and fifty-eight years of age. He did not sign, stating that he did not know how. I, the judge, did it, with my assisting witnesses. I certify.

LONGORIA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

JUIS L. DE LARA.

In the aforesaid city, on the same day, month and year, Don Juan Treanor presented for his examination Don Domingo Guerra, to whom the judge administered the oath, which he took in the form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked; and being interrogated according to the tenor of the interrogatories, making the set annexed to the letter rogatory which is to be executed, he answered

To the 1st. That he is acquainted with the complainants, and of the defendants he only knows Charles Stillman, Doña de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Dona Feliciana de Tigerina, and Don Manuel Prieto, remarking that he only knows the Senor Stillman by sight: and he answered

To the 2d. That the deponent knows that the Señora Doña Maria Jacinta Olivares married, first, Don Antonio Prieto, which individual deponent did not know; that he also knows that the said Señora married, the second time, the Señor Reynaldo, of whose surname he is ignorant: and he answers

To the 3d. That he is ignorant of the contents of this interrogatory: and he answers

To the 4th. That he has already said, in answer to the 1st interrogatory, that he knows the Señora Doña Maria de los Angeles Garcia, and the deponent knows that the said Senora married the

first time with Don Ramon Safen, and the second time with Don Constantino de Tarneva ; that he also knows that the said Señora had by her first marriage her two children, Don Ramon and Doña Angela Safen, of which the first is alive, and the second died since her marriage, without having left children : and he answers

To the 5th, and last. That he has nothing more to say than that which he has already stated, all of which is the truth upon his oath, and he confirms and ratifies it, having nothing to add or to subtract from it ; it was read to him, and he said it was faithfully written, stating that he was a native and citizen of this city, married, a farmer, and fifty-five years of age ; and signed with me and my assisting witnesses. I certify.

LONGORIA.
DOMINGO GUERRA.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
LUIS L. DE LARA.

On the fourteenth day of the said month and year, the Senor Treanor having stated that he had no other witnesses to present for examination in these proceedings, they were concluded, and in consequence thereof they were delivered under cover, and in six real leaves, to the aforesaid Senor Treanor, delivering to him also and under the same cover the letter rogatory and interrogatories which occasioned these proceedings, that the whole may be remitted to the Court making the application, and in fulfilment of what is prescribed in the order with which these proceedings begin ; and for proof thereof, I give these presents, which I sign with my assisting witnesses, with whom I act for the reason aforesaid. I certify.

LONGORIA.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
LUIS L. DE LARA.

Fees for taking these proceedings and the paper used in them, nine dollars one real, so I swear.

(A Rubric.)

On the envelope.

To the District Court of the United States of America for the District of Texas.

From the Court of the First Instance of Matamoras, Mexico.

I certify that the foregoing is a correct translation of the original, made by order of the Court.

WM. G. HALE.

Deposition from Matamoras (of Don Joaquin Argüelles.)

The within deposition was offered in evidence by the complainants at the hearing of the cause, and objected to by the defendants as in-

competent evidence. The same special objections were made to said deposition as were made to and endorsed on the depositions of Carceres, Cardenas, and Molano, taken at Victoria, and heretofore admitted as evidence in this cause. All which objections were overruled by the Court, and the said deposition read in evidence by complainants.

JAMES LOVE, *Clerk.*

Translation.

UNITED STATES OF AMERICA,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs.
CHARLES STILLMAN and others. }

Translation of the proceedings before the court of the first instance, in the city of Matamoras, in taking the deposition of Don Joaquin Argüelles on the part of the complainants.

To the First Alcalde.

I, Juan Treanor, representing Don Rafael Garcia Cavazos, Dona Josefa Cavazos, his lawful wife, and Doña Estafana Gozeascochea, whose power I have exhibited, respectfully state before your honor, that, in order to maintain and defend the right of property in the lands that my principal possesses on the left bank of the Rio Bravo, it is necessary to take the depositions of a witness or witnesses, whose names I will give in conformity with the interrogatories which I enclose. Wherefore I pray your honor to be pleased to order, in conformity with this petition. In it I shall receive justice, &c.

JUAN TREANOR.

MATAMORAS, *December 5, 1850.*

MATAMORAS, *December 5, 1850.*

In consideration of the foregoing petition, which has been presented to me, and of the interrogatories accompanying it, let the testimony which the party requests be received according to the tenor of the latter, examining, in consequence thereof, the witnesses whom he may present. I, the second constitutional alcalde, judge of the first instance, have so ordered and signed, acting with assistant witnesses, on account of the occupation of the notary public. I certify.

CALISTO PORTILLA.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
FRANC'O ARGUELLES.

In the aforesaid city, and on the same day, month, and year, Don Juan Treanor being present in court, I notified him of the foregoing order, and having heard it, he signed with me and my assisting witnesses with whom I act. I certify.

PORTILLA.
JUAN TREANOR.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
FRANC'CO ARGUELLES.

In the said city, on the fifth day of the said month and year, the party applying for the testimony which has been ordered to be taken, presented as a witness the notary public, Don Joaquin Argüelles, to whom I, the judge, administered the oath, which he took in the form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked; and being interrogated according to the tenor of the interrogatories contained in the set presented by the party, he answered

To the 1st: That he is perfectly well acquainted with the complainants and defendants, except Richard Fitzpatrick and Jacob Mussina; and he answered.

To the 2d: That he knows the handwriting and signature of Don Rufino Rodriguez; and the documents marked with the letters *AT*, *BS* being exhibited to him, he stated that the signature which authorizes said documents was the same which the aforesaid Don Rufino Rodriguez uses and employs in all his public and private acts; and he answers

To the 3d: That he knows the handwriting and signature of Don Manuel de la Viña. Thereafter the document marked with the letters *CR* being exhibited to him, he stated that the signature which is affixed at its end is the same which Don Manuel de la Viña uses and employs in all his public and private acts, and deponent recognizes it as such; and he answers

To the 4th, and last: That he knows and has nothing more to state in this proceeding for the benefit of the complainants and defendants, except what he has stated, which contains the truth, upon his oath; that he is a native of Guernos, in the State of Tamaulipas, and citizen of this city, by profession a notary public, and more than thirty years of age, and he signed with me, the judge, and my assisting witnesses with whom I act, as has been said. I certify.

PORTILLA.
JOAQUIN ARGUELLES.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
FRANC'CO ARGUELLES.

In the aforesaid city, and on the same day, month, and year, Don Juan Treanor appeared in court and said, that having no other witnesses to present for their examination in respect to the testimony which has been ordered to be taken, he asks that the court will be pleased to conclude it in consequence thereof, and to deliver to him

the original proceedings. This he stated and signed with me, the present judge, and my assisting witnesses. I certify.

PORTILLA.
JUAN TREANOR.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
FRANC'CO ARGUELLES.

MATAMORAS, *December 5, 1850.*

As he asks in the foregoing application, I, the judge, have so ordered and signed, with my assisting witnesses. I certify.

PORTILLA.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
FRANC'CO ARGUELLES.

On the same date, in compliance with what is prescribed in the foregoing order, I deliver these proceedings to the party, consisting of three legal leaves, delivering to him also the interrogatories and the other instruments. And in testimony thereof, I sign the present with my assisting witnesses. I certify.

PORTILLA.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
FRANC'CO ARGUELLES.

Fees in these proceedings, with the paper, six dollars and three reals. (A Rubric.)

On the Envelope.

To the District Court of the United States of America for the District of Texas.

From the Court of the First Instance of the Port of Matamoras, Mexico.

I certify that the foregoing is a correct translation of the original, made by order of the court.

WILLIAM G. HALE.

Translation.

I, the citizen Manuel de la Vina, First Constitutional Alcalde of this Town and its District,

Certify that, upon examining the files of the Documents belonging to the years one thousand eight hundred and thirty-two, and one thousand eight hundred and thirty-three, and one thousand eight hundred and thirty-four, in order to find the entry of the election of the municipal officers who acted in one thousand eight hundred and thirty-three, their President being Don Antonio Leal Leon, and in the following year under the same title Don Blas Maria Cavazos, they were not found in the aforesaid files, or in the inventory, where appears notwithstanding the proceedings had each year, doubtless either because they have been sent to the Supreme Government, or by some accident are not found.

No. 27.

*Deposition of William G. Hale, retaken under the order of the Court.*DISTRICT COURT OF THE UNITED STATES,
*District of Texas.*RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

It having been ordered by the Court that William G. Hale should be examined viva voce, at the hearing upon the interrogatories heretofore filed, and such cross-interrogatories as should be propounded to him, the said witness was accordingly on this *on this* the twenty-sixth day of March, A. D. 1851, duly sworn by the Court, and examined on the said direct interrogatories, and his answers thereto reduced to writing, as follows:

In answer to the first interrogatory: I do know the complainants, and Charles Stillman, Samuel A. Belden, Patrick C. Shannon, and W. W. Chapman among the defendants, and have seen Manuel Prieto, also one of the defendants; I do not know the other parties.

In answer to the second interrogatory: I am acquainted with the handwriting and signature of Juan Prado, having seen him write and sign documents, and having also seen documents acknowledged by him to be in his handwriting. The signature purporting to be the signature of Juan Prado, at the end of each of the paper writings exhibited to me and marked as in the interrogatory, and further certified by E. P. Hunt, Commissioner, on my former examination, is his genuine signature.

In answer to the third interrogatory: Juan Prado, at the time of signing said paper writings, was secretary of the Ayuntamiento of the City of Matamoras, and as such, keeper of the public archives of the said city. It was a part of the duties of his office to give copies of papers or documents among such archives. I know that he held this office, because he was, to my knowledge, generally recognized as such officer by the inhabitants of said city, and so called and addressed in my hearing by members of the said Ayuntamiento, and by the first Alcalde, D. Pedro de la Garza. And I was directed by the Ayuntamiento, in consequence, to apply to the said Juan Prado to obtain the copies and papers referred to the interrogatory as signed by him, which he made out at my request, and that of D. Juan Treanor, and delivered to me in person in the Secretary's office.

In reply to the fourth interrogatory: The printed paper marked by E. P. Hunt, Commissioner, *BX*, and exhibited to me, and certified by the said commissioner on my former examination, is a copy or number of a newspaper formerly printed in the city of Matamoras, in Mexico, called "El bien Publico," and edited by one Andres Trevino, formerly secretary of the Ayuntamiento of that city. I recognize it, and believe it to be what I state it to be from the circumstance of my having seen many other numbers of said newspaper issued and in circulation

in the city of Matamoras, to which it corresponds in size, quality of paper, title, and other general characteristics.

In reply to the fifth interrogatory: I am acquainted with the signature of José Francisco Racio, whom I know to have been, at the time of signing the same, curate of the town and jurisdiction of Camargo. I acquired my knowledge of his signature from having seen several documents signed by him. The signatures of persons holding an office in Mexico are generally marked and peculiar, and, as well as those of private individuals, have a flourish, or "rubrica," also called "firma," below the name or at the side of it, which is difficult to imitate. The body of the document referred to in the interrogatory, as far as the ninth line, is not, according to my belief, in the handwriting of the person above named, but the signature at the end is his genuine signature, and the remainder of the paper after the ninth line appears to be in his handwriting. The document referred to is the one certified by the commissioner on my former examination.

In answer to the sixth interrogatory: I know nothing besides what I have already stated, that I believe to be material to the subject of this examination; and I know nothing which in my opinion would be a benefit or advantage to any of the defendants in this cause. I do know many things, although generally from information and belief alone, which might be a benefit or advantage to the complainants, but being one of the counsel employed by said complainants, I do not consider it proper for me to state them unless specially interrogated.

WILLIAM G. HALE.

And thereafter, to wit, on the day and year aforesaid, the said witness being cross-examined upon cross-interrogatories filed by the counsel for the several defendants, deposed and said:

In answer to the first cross-interrogatory: I do not consider that I have any certain and direct interest in the event of this suit, nor that I shall be directly and certainly benefitted by the recovery by the complainants. There is, and was at the time of the taking of my original deposition in this cause, an agreement between the complainants on the one part, and Ebenezer Allen, my partner in the practice of law, and myself on the other part, by which we engaged to prosecute to a final judgment in the highest courts of law and equity all suits necessary to establish the title of the complainants to their distributive share of the land described in the bill, and in case of success we were to receive conveyances of a certain portion of the land, not claimed by the defendants in this cause; and with respect to the lands claimed by the said defendants, that is to say, the town site of Brownsville, Freeport, Marsfield, etc., and the site of Fort Brown, and the grounds adjacent thereto, it was understood that in case of a final decree in all the suits being rendered in favor of the complainants these lands were to be sold, as might be most advantageous, and a certain per centage of the proceeds to be paid to Mr. Allen and myself. We were to be paid, in any event, a certain sum of money. Under this agreement, I do not understand that we shall be really entitled to anything, except the sum of money before stated, even if the complainants gain the present cause in this court or the Supreme Court,

because, before becoming entitled to the contingent compensation or commission we are bound to carry to a successful issue suits against a great number of other persons, in which we cannot use the decree in this case for the purpose of obtaining judgment. Some time after the making of the original agreement, and after the commencement of this cause, the complainants executed conveyances to Mr. Allen and myself of a certain undivided portion of their distributive shares of the tract of land mentioned in the bill; but these conveyances were not to be considered as delivered so as to vest any interest or legal fee in us, until the termination of the suits before stated; and they were not in any event to inure to our benefit so as to entitle or to give us an interest in the land including the town sites before stated. The conveyances were intended as a security for our protection, and to give us a lien or power to enforce the agreement before mentioned, and were so stipulated for in the original document itself.

In answer to the second cross-interrogatory: I refer to my former answer, and distinctly say, that I shall not receive, in consequence of the agreement referred to, any greater compensation in the event the complainants recover, than if the defendants prevail, except so far as my partner and myself will then have done a part of what we undertook to do, and will consequently have less labor before us: whether we shall make anything in addition to the amount already paid us by our clients, will depend entirely on the successful issue of the other suits to be commenced, as well as of this, and the future sale of land so recovered.

In answer to the third cross-interrogatory: I refer to my foregoing answers. As to the land including the town site of Brownsville, I have already said that I am not by any agreement to have any portion of such land, in any event, nor any interest in such land, but only a portion of the proceeds of sale, should the same be finally recovered and sold.

In answer to the first part of the fourth cross-interrogatory: I refer to my answer to the first direct interrogatory. I have known D. Rafael Garcia Cavazos and his wife since October, 1849, and Dona Estafana Gozeascochea de Cortina since, I think, May, 1850, but I am not sure of the exact date without referring to my memoranda; I first saw D. Manuel Prieto in the spring of 1850.

Here the counsel for the complainants objected to the latter part of the fourth cross-interrogatory after the words "or such of them as you know," and to the whole of the fifth cross-interrogatory being put to or answered by the witness, on the ground that they related to matter not the proper subject of a cross-examination, and did not interrogate witness as to facts and circumstances referred to in the direct examination; which objection was sustained by the court, and it was ordered that the witness should not answer such cross-interrogatories.

In answer to the sixth cross-interrogatory: I refer to my answer to the last direct interrogatory.

WILLIAM G. HALE.

The foregoing examination was had, and the answers reduced to writing at the hearing, and signed by the witness.

JAMES LOVE, *Clerk.*

The within deposition was read at the hearing by the complainants, the defendants objecting to the same, and the right to examine at the hearing; and also objecting that the witness is shown by the deposition to be interested and incompetent; and also insisting on the right to answer on the cross-interrogatories to which the objections of witness are sustained by the court.

JAMES LOVE, *Clerk.*

No. 28.

The testimony of Charles Rosignol, taken viva voce and reduced to writing.

The following testimony was offered to be read as evidence by complainants at the hearing, and the examination of the witness, respectively, was objected to by defendants as not competent at the hearing, and as not competent and sufficient proof of the matters deposed or stated by said witnesses, which objections were overruled by the court, and the same were read in evidence by the complainants.

JAMES LOVE, *Clerk.*

DISTRICT COURT OF THE UNITED STATES, *District of Texas.*

In Chancery.

RAFAEL GARCIA CAVAZOS and others

vs.

CHARLES STILLMAN and others.

Be it remembered, that at the hearing of the above entitled cause, and in conformity with the order of the court made on the twenty-seventh day of March, A. D. 1851, Charles Rosignol was called as a witness on behalf of the complainants, and having been duly sworn, in open court, deposed and said as follows:

I have been long accustomed to copy handwriting; I am deputy clerk of the supreme court of the State; I can tell handwriting by comparison in general; I have examined the signature of "J. Prado" at the end of the document marked *D*, referred to in the depositions of Joaquin Arguelles and Juan Prado, and compared it with the signatures at the end of the several documents marked in red letters *LM, NT, UV, XY, OP, QR, BC, DE, FG*, and referred to in the deposition of Wm. G. Hale, and I find that there is a very marked resemblance; the flourish under the names is the same, with very slight differences, and I should believe the signatures at the end of the last mentioned documents to have been made by the same person who made that on document *D*.

No. 29.

Papers marked DE, FG, OP, GH, proved by Hale and Rosignol. DE.

Complainants offered the within paper, in the Spanish language, as a copy from the records of the Ayuntamiento of Matamoras; ob-

JAMES LOVE, *Clerk.*

E. P. HUNT, *Commissioner.*

FG.

JAMES LOVE, *Clerk.*

E. P. HUNT, *Commissioner.*

OP.

JAMES LOVE, *Clerk.*

August 7, 1850.—The within paper was produced upon the execution of the commission in the above entitled cause, hereto attached,

and shown to William G. Hale, the witness interrogated, and by him deposed to as stated in his answers.

E. P. HUNT, *Commissioner*.

GH.

Read in evidence by the complainants at the hearing.

JAMES LOVE, *Clerk*.

RAFAEL GARCIA CAVAZOS and others
vs.

CHARLES STILLMAN and others.

August 7, 1850.—The within paper was produced upon the execution of the commission in the above entitled cause, hereunto attached, and shown to William G. Hale, the witness interrogated, and by him deposed to as stated in his answers.

E. P. HUNT, *Commissioner*.

Translation of the document marked *DE*, referred to in the foregoing deposition :

On the outside cover.

Copy of the entry of the election as alcaldes of the citizens Juan Nep'o Molano and Don Juan Prado, Matamoras.

Office of the secretary of the illustrious ayuntamiento.

There is no sealed paper of the corresponding seal in the office of the administration.

Official paper. Fourth seal. One cuartilla. For the years 1835 and 1836. In this city and port of Matamoras, on the twentieth day of the month of December, one thousand eight hundred and thirty-five, the electors chosen on Sunday, the thirtieth of the present month, having convened in the city hall for the purpose of electing the persons who are to act in the ensuing year one thousand eight hundred and thirty-six, in the municipal offices, and as judges of peace, having been previously summoned for that purpose by the president of the illustrious ayuntamiento, Don Francisco Garcia, the respective credentials of their appointments for this object having been presented, to wit: Don Andres Saldano, Don José Maria Tovar, Don Jesus Cardenas, Don Antonio Marcia Casas, Don Juan Prado, Don Calixto Portilla, Don José Maria Villareal, Don Manuel Galan, Don Domingo de la Garza, Don Macedonio Ramirez and Don Agapito Longoria, the meeting proceeded to elect two tellers and one secretary, in accordance with the provisions of the law of the 30th of November, 1834, there being elected for the first office the citizens Jesus Cardenas and José Maria Tovar, by the absolute majority of votes, and for the second the citizen Juan Prado. Thereafter, the officers elected taking their respective seats, the electoral junta being presided over by the president, Don Francisco Garcia, the laws upon the subject were read, and the junta being fully acquainted with them, and the credentials of the electors having also been read, which having been compared with the minute

of the election corresponded therewith, the meeting proceeded to elect the first alcalde in the form prescribed by the aforesaid law of 1834, of which office Don Juan Nepomuceno Molano received eleven votes, and in consequence the Señor Molano having obtained the absolute majority, was elected as first constitutional alcalde. Thereafter the meeting proceeded to the election, upon which the citizens Juan Prado received seven votes, Jesus Cardenas two, Macedonio Ramirez one, and Calisto Portilla one; Don Juan Prado being elected in consequence of having united a majority of the votes. Immediately thereafter the meeting proceeded to the appointment of fourth regidor, and the citizen Roman Perez was elected by the absolute majority of eleven votes. For the fifth regidor the citizen José Rafael Garcia Cavazos was elected by eleven votes. For the sixth regidor the citizen José Maria Trevino y Gonzales was elected by eleven votes. Thereafter the meeting proceeded to the election of syndic procurator; upon which the citizens Macedonio Ramirez had one vote, and Antonio Maria de las Casas ten; the aforesaid Casas being elected, having obtained the absolute majority. Thereafter the meeting proceeded to the election of first judge of the peace; upon which the citizens Juan Longoria Garza had three votes, Leonardo Salinas one, and Manuel Galan seven, by which the aforesaid Galan was elected first judge of the peace. As second, Don Juan Longoria y Garza was elected by the absolute majority of eleven votes; and as substitute the citizen Polycarpo Farias was elected by the majority of eleven votes. Wherewith this proceeding was terminated, the secretary having declared the election of the persons who were chosen, and drawn up the present minute, which the president, Don Francisco Garcia, and the electors of the junta have signed before me, the undersigned secretary. I certify.

FRANCISCO GARCIA.

Erased—two—incorrect.

This is a copy, conforming to its original, from which it was ordered to be copied by a resolution of the illustrious ayuntamiento of the twentieth of April last, at the request of Don Juan Treanor, as the representative of Don Rafael Garcia Cavazos, on three legal leaves of common paper, there being none of the corresponding seal in the office of the administration in this city. Matamoras, May 2, 1850.

JUAN PRADO,

Secretary ad interim.

Translation of the document marked *FG*, referred to in the foregoing deposition.

On the outside cover.

Certificate from the secretary's office, in which is inserted the diploma as notary public in favor of Bach. Don Pedro Pablo Palaez. Matamoras.

There is no sealed paper of the corresponding seal in the office of the administration.

I, Juan Prado, secretary ad interim of the illustrious ayuntamiento of this city, certify: That in the book of the sessions of the

illustrious ayuntamiento of the year 1835, and on the 138th leaf, appears in the minute of the ordinary session of the 17th of January of the same year, among other resolutions, the following order: "A report was also made of the petition of the Bachelor Don Pedro Pablo Palaez, in which he encloses his diploma as notary public of this State, and requests permission to act in this town. This being taken into consideration, it was unanimously granted, since the said notary having already been appointed by the foregoing order to take the registry of mortgages in this town, his admission had been granted by this fact, and it only remained to have an entry made of the said diploma by the present secretary, as is now done, being literally as follows: 'I, the citizen Licentiate Pedro Abraham Bojas, magistrate of the first hall of the Supreme Court of Justice, of the free and sovereign State of Tamaulipas, To all those to whom these presents may come, I make it known that the citizen, Pedro Pablo Palaez presented himself in the first hall with the documents required by the law of the State of the 6th of February, one thousand eight hundred and thirty, requesting to be admitted to the exercise and use of his functions as Notary Public of the said State, and an inspection of the documents having been directed to be made by the Attorney General (Fiscal,) upon which he stated that he assented to the aforementioned petition, two examiners were named, in conformity to the provisions of the same law, and the examination having been made on the day assigned for that purpose, and at the time appointed, as the application was approved by a unanimous re-declaration for the office, the proceedings were sent to the supreme government of the State, for the purposes indicated in the same law, and they having been returned to the court without any objection, the corresponding order of approbation was directed, and that the aforesaid citizen, Pedro Pablo Palaez, should appear to take the oath provided in the two hundred and thirty-ninth article of the constitution, as he in fact did: all of which appears in the proceedings, stated at length in the record of the matter. Wherefore, I have come to order, and I do order, that this warrant be issued to the party interested, to serve him as a diploma in due form, for the exercise of the office of Notary Public of the State. And that, in virtue thereof, entire credence shall be given to the writings, documents, and other public and judicial acts that may appear authorized by the said Pedro Pablo Palaez: and that the immunities and exemptions which appertain to him by the laws, in his character of Notary Public, should be preserved and caused to be preserved, with the proviso, that he must present this diploma to the first local authority in the places in which he exercises his authority for the corresponding permission, and that a minute of it be made by the Ayuntamiento or municipality, as well as entered in the record book of the Clerk's office of this Court, being signed on the margin in due testimony thereof. Given in the city of Victoria, on the seventeenth of October, one thousand eight hundred and thirty-four—the eleventh of the institution of the Congress of this State. Licenciado Pedro A. Bajas. Marcelino Perales, Secretary of the Chamber.' Upon which this minute was concluded, which the members of the corporation signed with me, as I certify. Antonio Chapa, Quinta de Hinojosa,

Leonardo Salinas, Antonio M'a de las Casas, Rafael Garza, Juan José de la Garza. Miguel Genen Trujillo, Secretary."

And at the request of Don Juan Treanor I issue these presents, which I sign in the said city of Matamoras, on the third day of May, one thousand eight hundred and fifty.

JUAN PRADO,
Secretary ad interim.

Translation of the Document marked OP, referred to in the foregoing deposition.

There is no sealed paper of the corresponding seal in the office of the administration.

Third seal—Two reals—for the years 1827 and 1828. In the town of Matamoras, on the fifteenth day of the month of July, one thousand eight hundred and twenty seven, before me, the citizen Andres de Saldaña, First Constitutional Alcalde, acting as examining Judge (por receptoria) for want of a Notary Public, there being none according to law, and the instrumental witnesses who are named below appeared the citizen Rinaldo Trevino, of this vicinity, and being present in his proper person, which I certify I know, said, that having, as he had in fact, full power and authority from his wife, Doña Maria Jacinta Olivares, whose power I certify he presented to me, authorizing him to sell, dispose of, and of every class of property belonging to his said wife, who was present at this proceeding, he had determined to sell, and did sell, to Don Ramon Safen of this vicinity, and a merchant, the land which came to his wife by inheritance on account of the death of her first husband, Don Antonio Prieto, which is situated in this jurisdiction, on the other side of the Rio Grande, composed of pasture lands; that this land is bounded on the north by the Arroyo Colorado, on the west by the land of Doña Francisca Cavazos, on the east by the land of Don Manuel Prieto, and on the south by the Rio Grande; that the sale had been made for the amount of four thousand five hundred and seventy-one dollars, which he had received in good money from the purchaser, to his entire satisfaction; that he delivered and did deliver to him the lands sold without controversy, suit, mortgage, or any other cause of dispute, free from all charges, and with its free ways, customs, and servitudes; that the said purchaser may so enjoy, exchange, or alienate it, stating, as he did state, that if any suit or controversy should be occasioned to the purchaser by the present sale, he would assume it in his favor and defence until he was left in quiet and peaceable possession of what he had purchased; he made a formal renunciation for the greater security of the contract, of all and whatever laws were in his favor and defence; with the general requisite of the law as to form, and the four years to demand back what he had sold, submitting it, as he did submit it, to the authority and jurisdiction of the National Judges, and especially to those of this place, that they might bind him by execution to conform to this deed, for the fulfilment whereof he bound his property, present and future, and the services of his own person, saying, that he asked all the judges that such effect and validity should be given to this document, that neither from want of a clause, or an expression, or a requisite of the law, it should fail in having the effect for which

it might be used as well in Court as out of it; the citizens Macedonio Ramirez, Rafael Salis, and Matias Ramirez, of this vicinity, being instrumental witnesses at the time of drawing up this deed. In testimony whereof, I granted these presents and signed them with me and my assisting witnesses in the form above stated. All of which I certify. ANDRES DE SALDANA REYNALDO TREVINO. MARIA JACINTA OLIVARES. Assisting witness, Manuel Galan. Assisting witness, Juan José de España.

This is a copy, conforming to its original, from which it was ordered to be copied by resolution of the illustrious ayuntamiento of the 20th of April last, at the request of Don Juan Treanor as the representative of Don Rafael Garcia Cavazos, on two leaves of common paper, there being none of the corresponding seal in the office of the administration in this city. Matamoras, May 2, 1850.

JUAN PRADO, *Secretary ad interim.*

Translation of the document marked GH, referred to in the foregoing deposition.

I, the Priest José Francisco Recio, curate of the town of Camargo and its jurisdiction, certify that in all form of law in the book No. 2, which contains the entry of marriages celebrated from the first day of January, 1796, to the first of January, 1836, bound in white leather, and on the forty-second leaf, No. 22, on the first page, is an entry which is literally as follows:

[In the margin, No. 22, D. Joseph Ant'o Lopez Prieto and D'a M'a Jacinta Olivares, Spaniards of this town.]

In this town of Santa Ana de Camargo, on the first of August, one thousand eight hundred and three, the preliminaries of the marriage having been first had as the holy council of Trent provides, I, Br. Pedro Maldonado Zapata, as minister of this town, in this holy parochial church under my charge, married at the proper time, *in facie ecclesiae*, Don Joseph Antonio Lopez Prieto, Spaniard by origin and resident of this town, legitimate son of Don Pedro Lopez Prieto and Dona Maria Margarita de la Garza, the latter now deceased, to Dona Maria Jacinta Olivares, a Spaniard by origin and a resident of this town, legitimate daughter of Don Alexander de Olivares and of Dona Maria Francisca Trevino, now deceased, who had been announced in this holy parochial church under my charge on three feast days, *inter missarum solemnias*, as they were so announced, the first time on the twenty-fourth day of the past month of June, the solemnity of the nativity of St. John the Baptist; the second time on the twenty-sixth day, the fourth Sunday after Pentecost; and the third time on the twenty-ninth day, the feast of the holy apostles St. Peter and St. Paul; on which publication no impediment appeared to oppose the celebration of the marriage. The sponsors were the Captain Don Joseph Gozeascochea, and his wife, Dona Jabiera de la Garza, resident citizens of this town. The witnesses of the celebration of the marriage were Don Tomas Gutierrez and Don José Maria Asevedo, besides the other persons who were present at the holy sacrifice of the mass, and that it may appear I have signed it in the said town on this said day, month, and year. *Ut supra.*

BR. PEDRO MALDONADO ZAPATA."

Which entry is faithfully and legally copied from its original, which exists in the archives under my charge, in the book, leaf, and number before mentioned, to which I refer, authorizing it on this paper, there being none of the corresponding seal in the administration of this department; and I give these presents for the purposes that may suit the party interested, which I sign in the town of Camargo, this the thirtieth of June, one thousand eight hundred and fifty.

J. FRAN'CO RECIO.

Fees without paper, two dollars.

No. 30.

Deposition of O'Docharty, marked No. 3.

IN THE DISTRICT COURT OF THE UNITED STATES,
District of Texas.

CAVAZOS *et als.* }
 vs. }
 STILLMAN *et als.* }

The following deposition of William O'Docharty was offered in evidence by the complainants as evidence at the hearing of this cause, and objected to by the defendants as incomplete evidence.

It was specially objected that the said deposition was not taken and returned in the manner prescribed by the acts of Congress, nor does the certificate of the commissioner taking the same, show that the law was complied with, or that the reasons which authorized the taking of such deposition existed in this cause.

Also, that a part of said deposition, as shown by the commissioner, was reduced to writing by the witness: and it was not specially shown that it was in the presence of the commissioner.

Also, that the testimony of said witness is incompetent and immaterial, and the proof of said survey cannot be made against the defendants.

That the document read, as proved by said witness, is not complete evidence.

Because it is not sufficiently identified or indorsed by the commissioner, as the document proved. It was not returned with the deposition. It was not filed as evidence in this cause before the hearing.

It is not competent evidence, and cannot affect the defendants in this cause.

All which objections were overruled by the court, and the said deposition and survey read as evidence by complainants.

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA,
District of Texas, State of Texas, County of Nueces.

L. S.

Be it remembered that on this the twenty-third day of October, in the year of our Lord one thousand eight hundred and forty-nine, I, Daniel Ayres, a commissioner duly appointed by the district court of the United States for the district of Texas, having and exercising the powers and jurisdiction of a circuit court of the said United States, under and by virtue of the acts of Congress entitled An act for the more convenient taking of affidavits *an bail* in civil causes depending in the courts of the United States, passed February 20th, 1812, and the act of Congress entitled An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States, passed March 1st, 1817, and the act entitled An act to establish the judicial courts of the United States, passed September 24th, 1789, did call and cause to be and personally appear before me, at the hotel in Corpus Christi, county of Nueces, State and district aforesaid, to certify and the truth to say, on the part of these complainants, in a certain suit now depending and undetermined in the district court of the United States for the district of Texas, and to be tried at Galveston, in the said State and district, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman *et als.* are defendants, William O'Docharty, etc. And the said William O'Docharty, being of sound and lawful age, was by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the suit aforesaid, and thereupon I did carefully examine the said witness, and he deposed, testified, and said as follows, viz:

I am acquainted with the complainants.

I am not acquainted with the defendant, Charles Stillman.

I recognize the paper now exhibited to me, marked *A*, purporting to be a plot and calculation of a survey on the Rio Grande. The same is in my handwriting, excepting the four last lines of the letter *A*, and before the signature.

The plot and calculations are mine and were made by me.

The survey was made by me, I think, in 1836, but am not positive whether it was made in 1836 or in 1837.

The said tract of land is generally called, or was, at the time I surveyed it, called the Potrero del Esperitu Santo, and its deputed owners were Manuel Prieto, Domingo de la Garza, Rafael Garcia Cavazos, Juan Tigerina, and Estafana Gozeascochea de Cortina; and said land lies between the Arroyo Colorado and the Rio Grande, opposite Matamoras.

The part corresponding to Domingo de la Garza (as above expressed) is now, I understand, the property of Mrs. Tarnava, from whom said Domingo first purchased the same.

The plot and calculations are correct, and it shows correctly the measurement, causes, and contents of the said survey made by me.

This is the same survey referred to in my former deposition in this case.

I wish to explain that I have made several plots and calculations to the different owners of the Potrero above expressed.

I believed them all correct at the time I made them.

The calculations in the paper *A*, above referred to, I have not now time to examine, but I believe they will in examination stand the test.

WILLIAM O'DOCHARTY.

And I, David Ayres, the commissioner aforesaid, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, that the testimony of the witness is material and necessary in the civil cause or suit in the caption of the said deposition named, and that he lives in the county of San Patricio, more than one hundred miles from the place where the trial of the said suit is to be had, to wit: the city of Galveston, in the said district and State. I further certify that neither of the defendants, nor any one of their attorneys, were within one hundred miles of the place aforesaid of taking the foregoing deposition at the time when the same was taken, and that, therefore, no notification of the time and place of taking the same was given to them or either of them by me.

And I further certify that on the day before first mentioned I was attended by the said witness, and thereupon the above deposition was taken and reduced to writing by me in the presence of the *presence of* the witness, and from his statements, and after carefully reading the same to the witness, he subscribed his name thereto.

I have retained the said deposition in my possession for the purpose of sealing up and directing, and, after such sealing and directing, handing the same to the clerk of the court for which the same was taken.

And I do further certify that I am not of counsel or attorney for either parties in the caption of the said deposition named, nor in any way interested in the said cause or suit.

Witness my hand and seal the day and year above written.

DAVID AYRES.

Excepting the Mexican names, which were wrote by the witness himself.

D. AYRES, *U. Commissioner.*

NOTE.—The paper *A*, referred to in the aforesaid deposition, is filed with the deposition which them the same complainants, and Simon Mussina is defendant.

D. AYRES, *U. S. Commissioner.*

No. 31.

Testimony taken viva voce of George B. Inez, and reduced to writing

The following testimony was offered to be read as evidence by complainants, at the hearing and the examination of the witnesses respect

ively, was objected to by defendants as not competent at the hearing, and as not competent and sufficient proof of the matters deposed and stated by said witnesses ; which objections were overruled by the court, and the same were read in evidence by the complainants.

JAMES LOVE, *Clerk.*

And, thereafter, George B. Inez was called as a witness on the part of the complainants, and, having been duly sworn, in open court, deposed and said as follows :

I was a deputy clerk of this court at the time of opening the depositions in this cause and that of Rafael Garcia Cavazos and others against Simon Mussina. These in the latter case were opened by consent of parties, on the fifteenth day of November, 1850 ; and at that time I took out of the envelope containing the deposition of William O'Docharty, in that case, the paper marked A, purporting to be survey, plan, and field-notes of a survey now filed in this cause.

Cross-examined by the defendants : The paper was not attached to the deposition, but was disconnected from it.

No. 32.

O' Docharty's plan of survey, &c., marked A.

March, 1851. Was filed in the first of the said causes, and was offered by the complainants in evidence in that cause ; was objected to by complainants because not identified nor endorsed by the commissioner taking the depositions of said O'Docharty in this cause ; and because the order to produce said deposition in the case against Mussina was not obtained before the hearing ; and the reading of said paper was likewise objected to as legal and competent evidence in this cause, or bearing any relevancy to the same.

All which objections were overruled by the court, and the same was read in evidence by the complainants.

JAMES LOVE, *Clerk.*

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS *et als.* }
vs. }
SIMON MUSSINA.

Translation of the field-notes of a survey made by William O'Docharty, and referred to in his depositions :

The following leaves contain the courses, distances, calculations, and quantity (in sides and square cordeles) of the Agostadero del

Esperitu Santo, and of the parts of the said agostadero, belonging to D. Sabas Cabazos and D. Juan Tijerina. The calculations of the other parts I will present when their owners furnish the necessary means to mark out their dividing lines.

NOTE.—The bends of the river are not included in the partition, because the owners agreed that each one should receive what would come to him by extending his lines.

On the map.

- a. The stone mark, (clavado.)
- b. Mesquit marked +.
- c. Another stone mark, (clavado.)
- d. Mesquit marked +, in the labor of D. Rafael Garcia.
- e. A stone mark in front of the R. de S. Juan.
- f. Mesquit marked +, on the edge of the league.
- g. Another mesquit *stake on the league.*
- x. The watering place of el sows.
- y. The entrance, (puerta.)

Courses.	Dist.	N.	S.	E.	W.	M.D.	Area N.	Area S.
S.	73.0	-----	73.0	-----	-----	00.0	-----	-----
S. 72 W.	614.0	-----	189.8	584.0	-----	00.0 584.0	-----	110843.20
N.	871.7	871.7	-----	-----	-----	1168.0 1168.0	1018145.60	-----
W.	27.4	-----	-----	-----	27.4	1168.0 1140.6	-----	-----
N. 30½ W.	166.9	143.9	-----	-----	87.7	1113.2 1028.5	148001.15	-----
S. 35° 21' W.	134.3	-----	110.0	-----	77.0	943.8 866.8	-----	95348.0
S. 26¾ W.	52.6	-----	46.2	-----	23.5	789.8 766.3	-----	35403.0
S. 82 W.	87.8	-----	12.0	-----	86.8	742.8 659.0	-----	7908.0
S. 63 W.	111.8	-----	51.1	-----	99.5	569.2 469.7	-----	24001.6
S. 9½ W.	57.6	-----	56.8	-----	9.0	370.2 361.2	-----	20516.16
S. 71 W.	97.6	-----	31.8	-----	92.2	355.2 260.0	-----	8268.00
S. 10° 40' W.	452.5	-----	444.9	-----	83.9	167.8 83.9	-----	37327.10
						00.0		

1166146.75

339615.20

2)826531.55

6)413265.77 all the agostadero.

68877.62 the sixth.

Courses.	Dist.	N.	S.	E.	W.	M.D.	Area N.	Area S.
S. 63 W.	36.0	-----	16.3	-----	32.2	32.3	-----	524.86
S. 9½ W.	57.6	-----	56.8	-----	9.0	64.4	-----	4169.12
S. 71 W.	97.6	-----	31.8	-----	92.2	72.4	-----	5552.28
S. 10° 41' W.	452.5	-----	444.9	-----	83.9	82.4	-----	156026.00
S.	73.0	-----	73.0	-----	-----	174.6	-----	31725.80
S. 72 E.	114.6	-----	33.3	108.9	-----	266.8	-----	10845.81
S. 9° 21' E.	664.8	656.1	-----	108.4	-----	350.7	71121.24	-----
						434.6		
						434.6		
						434.6		
						325.7		
						216.8		
						108.4		
						000.0		

208844.30

71122.24

2)137723.06

The part of D. Sabas Cavazos..... 68861.53

Courses.	Dist.	N.	S.	E.	W.	M.D.	Area N.	Area S.
S 82 W.	23.1	-----	3.2	-----	22.9	22.9	-----	73.28
S. 63 W.	75.8	-----	34.8	-----	67.3	45.8	-----	3925.88
S. 9° 21' W.	664.8	-----	656.1	-----	108.4	113.1	-----	189480.64
S. 72 E.	114.6	-----	33.3	108.9	-----	180.4	-----	9600.39
N. 7° 2' E.	732.6	727.4	-----	89.7	-----	288.8	65247.78	-----
						397.2		
						288.3		
						179.4		
						89.7		
						00.0		

203080.23

65247.78

2)137832.45

The part of D. Juan Tijerina..... 68916.22

From the entrance (Puerta) east, there are 584 cordeles. From Sn. Yzo. north to the Laguna Madre there are 993 yd'ñ, on the side of the east to the west there are 584 yd'ñ. On that of the north to the south there are 725 yd'ñ.

JUAN JOSÉ TIJERINA.

I certify that the foregoing is a correct translation of the original made under order of the court.

WILLIAM G. HALE.

8111

in Chancery.

CHURCHES, COLLEGES, AND SOCIETIES.

I am acquainted with the handwriting of Francisco Javier Gamboa

referred to in this report.

Robert H. Hord, esq., called by the complainants at the hearing to prove original testimonio of grant to bearing date

Mr. Hord's testimony being objected to by the solicitors of Jacob Mussina, one of the defendants, and Mr. Hord himself claiming exemption from being called as a witness by complainants, on the ground that he was interested in the event of the suit, he was sworn upon his *voir dire*, and in answer to questions testified as follows :

Since the institution of this suit I have bought the entire interest of Stillman and Belden, two of the defendants. I am also interested in the establishment of the old title, which I am now called to prove up, but I am more largely interested in the success of the defence of this suit. Jacob Mussina has no interest in the property in controversy ; he forfeited any joint interest which he may have ever claimed with Stillman and Belden by failing to perform any contract which he may pretend to have had with them.

The solicitors for Jacob Mussina, one of the defendants, thereupon put the following question to Mr. Hord :

Have you or have you not any understanding or agreement with the complainants, or either of them, or their agent or solicitors, in relation to the determination or relation of this cause, or of any of the matters involved therein, adverse to any interest or right claimed by Jacob Mussina in any property or rights involved in this suit? Are you or not interested in any such understanding or agreement?

Which question Mr. Hord declined to answer ; and thereupon the court decided that the question need not be answered.

And thereupon the said Robert H. Hord, being sworn in chief by the court, deposed and said as follows :

I can say nothing about the genuineness of the signatures at the end of the testimonio of title produced by the complainants. I had supposed that they were genuine from the fact that about two years and a half ago I received from my clients a title for the lands of Concepcion de Carristos, which I supposed to be genuine ; it had marks of age, and I had been told by others it was genuine. It had been generally acknowledged and acted on as such. The signatures to the title produced by the complainants appear to be the same as those on the Carristos title. I examined both very particularly some time ago, as I was attorney for some of the parties claiming under the first, and for those claiming under the second. It is my impression that they are both genuine.

A subpoena was served upon me to produce in this cause the testimonios of title for the lands of Concepcion de Carristos and the lands about the Great Salt Lake. At the time when the subpoena was served on me I was from home, and these titles were in the possession of my partner, Mr. Russe. They have since, and before my return home, been delivered by him to the commissioners for the examination of titles on the Rio Grande, and were lost in the Gulf by Dr. Miller, one of the commissioners.

The Carristos title was generally regarded by the Mexicans as genuine and valid. The Americans generally deny the validity of

this title as of all others, on the ground that the separation of the country from Mexico annulled them and left the land vacant.

I recollect seeing Mr. William G. Hale make a copy on tracing paper of the signatures at the end of Carristos' title in my office. I cannot say that the tracing paper presented to me and annexed to Mr. Hale's testimony is the same, but it resembles it.

Cross-examined by the defendants. I compared the signatures and examined them carefully. They appear to be of the same person. I do not consider myself an expert in the examination of handwriting. Mexicans are very expert in the imitation of handwriting. I have often seen it done by them in such a way that I could not detect it. I have not made it an object or business to compare handwriting.

I do not know that the genuineness of the Carristos title is any more acknowledged any more than that of the grant sued on. I have never heard the genuineness of either doubted among the Mexicans.

And thereafter John S. Jones was called as a witness under the said order of the court, and, having been duly sworn, deposed and said as follows :

I am a deputy clerk of this court. I have been familiar with handwriting nearly all my life. I am accustomed to compare handwriting, and could in general tell the handwriting of persons by comparison. On comparing the copies of signatures on tracing paper exhibited to me with the signatures at the end of the testimonio of title produced by the complainants, I would state that they are not fac similes, but have a marked general resemblance ; and I should believe the signatures in the testimonios, and those from which the tracing paper copies have been taken, to have been made by the same persons, or by some one very expert in forging or counterfeiting them. In the absence of fraud I should believe them to have been made by the same persons. The tracing paper copy is evidently taken from signatures on some other document.

Cross-examined by the defendants. I think that it is practicable to counterfeit the signature, and that, with a little practice, I could make as good imitations of signatures as those shown to me.

And thereafter Charles Rosignol was called as a witness under the order aforesaid, and, having been duly sworn, deposed and said as follows :

I have been accustomed to write and copy handwriting for a long time. I think I could tell handwriting by comparison. I am deputy clerk of the supreme court of this State. Upon comparing the copies of the signatures on the tracing paper exhibited to me, with the signatures at the end of the testimonio of title produced by the complainants, I would state that they are not fac-similes, but have a marked general resemblance ; and I should believe the signatures in the testimonio, and those from which the tracing paper copy has been taken, to have been made by the same persons, or by some person very expert in forging or counterfeiting them. In the absence of fraud, I should believe them to be made by the same persons.

The tracing paper copy is evidently taken from signatures on some other document.

Cross-examined by the defendants. I think that it is possible to

counterfeit the signatures, and that with a little practice I might make as good imitations of signatures as those produced.

The foregoing testimony was reduced to writing at the hearing by the direction of the court.

JAMES LOVE, *Clerk*.

[See original, page 1080.]

The above is the original tracing paper exhibited to the witnesses, W. G. Hale, R. H. Hord, John S. Jones, and Charles Rosignol, and referred to by them in their testimony given under the order of court to prove the testimony of title granted to D. Salvador de la Garza, at the hearing in the cause of Rafael Garcia Cavazos and others *vs.* Charles Stillman and others.

JAMES LOVE, *Clerk*.

MARCH 28, 1851.

The reading of the testimonio of title was objected to by the defendants because not shown to be in conformity with the laws of Mexico, and such as was and is valid by said laws, or that the same would be admissible as evidence in Mexico.

2d. That the testimonio is defaced, interlined, and in many places illegible.

3d. The testimonio has not been and is not sufficiently proved to be in evidence in this cause; and defendants in support of said objections read from a printed book called Partidas, edited by Moreau and Carleton, and from decisions of the Supreme Court of Texas, showing said book to be authority as containing the laws in Mexico.

To the *viva voce* proof of said testimonio at the hearing it was particularly objected—

1st. That the same cannot properly be made and received at the hearing.

2d. That the same is irrelevant and incompetent, and does not tend to prove the genuineness of the execution of the document or testimonio offered.

3d. That proof by comparison of handwritings is not proper, the genuineness of the specimens not having been admitted or proved.

4th. That the foundation of Mr. Hale's belief as to the genuineness of the signatures could not warrant him in swearing that he was acquainted therewith.

To the testimony of Messrs. Jones and Rosignol, it was more particularly objected—

1st. That the specimen is not sufficiently identified.

2d. The specimen on tracing paper is not such as admits of a comparison, and testimony founded thereon.

3d. That such testimony could not be received at the hearing.

To the testimony of Mr. Hale it was further objected that he is interested in the event of this cause, as shown in his deposition.

To the testimony of Mr. Hord it was further objected by the solicitors of Jacob Mussina, that Mr. Hord ought to have been compelled to answer the question put to him by the solicitors of said defendant

in his examination on the *voir dire*, and that said Hord is interested in establishing said title.

All which objections made by the defendants respectively were overruled by the Court, and the said testimonio read in evidence.

JAMES LOVE, *Clerk*.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

The foregoing document, being the paper writing purporting to be the original testimonio of title issued to Don José Salvador de la Garza for the tract of land stated in the bill of complaint, was produced by William G. Hale, one of the solicitors and counsel for the said complainants, at the hearing of the above entitled cause, was testified to by the said William G. Hale, Robert H. Hord, John S. Jones, and Charles Rosignol, as appears by their testimony, now reduced to writing, and was then offered as evidence in this cause with the translation on file; to its admission as evidence, the counsel for the defendants objected for the reasons hereinafter stated, but their objections were overruled by the court, and the said document was accordingly admitted and read in evidence at the hearing on the part of the said complainants. March 28, 1851.

JAMES LOVE, *Clerk*.

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
SIMON MUSSINA. }
RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

Mexico, and September the 26th, one thousand seven hundred and eighty-one. Title of sale, adjudication, and grant of fifty-nine sitios of "Ganado Mayor" and eleven *caballerias* of land, made by the special judge of lands of this kingdom, and confirmed by the royal audience, in favor of Don José Salvador de la Garza, resident citizen of the town of Camargo, within the limits of the colony of Santander.

Don Francisco Xabier de Gamboa, of the council of his Majesty, his oidor in the royal audience of this New Spain, and special judge of the sales and purchases of lands and waters in the district of the said royal audience, etc. Whereas proceedings were had before me, and in this my special tribunal, upon the application of Don José Narciso Cabazos, resident and original settler (*poblador*) of our Lady of Guadalupe de Reynosa, on the Gulf of Mexico, who asked to be permitted to purchase a *potero* named Santa Rita, and after the usual order

had been given to him, that the proceedings prescribed in it for the object of his claim might be taken, D. José Salvador de la Garza, upon this, opposed the said claim, declaring that the said lands were contained within the potrero named Esperitu Santo, which he had denounced, in the year seventy-two, before the lieutenant-general of that colony, who ordered him to apply to this tribunal, and he having done so by means of powers of attorney which he gave, and full means for the prosecution of the business, he failed in obtaining the grant through the negligence of his attorneys, in consideration whereof, and of the proceedings had on the application of the said Cabazos, and what has been alleged on either side by an order of the 26th of November of the past year, seventeen hundred and seventy-seven, I declare that the purchase of the place of Santa Rita, claimed by Cabazos, could not be admitted, and I ordered that a commission (dispatcho) be delivered to D. José Salvador de la Garza, in conformity with the denunciation which he had heretofore made before the lieutenant-general of the colony, and repeated in this tribunal, in order that the nearest justice (teniente) might execute the proceedings prescribed in the order: In obedience to which the commandant of the town of Camargo proceeded to receive the following testimony (informacion):

[Testimony.]

In the town of Santa Ana de Camargo, on the aforesaid 15th day of the month of June, one thousand seven hundred and seventy-nine, before me, D. Juan Antonio de Echave, holding the post of chief justice of the said town (teniente de justicia mayor de dicha villa) and commissioned as Judge in these proceedings, and before my assisting witnesses D. José Salvador de la Garza presented as his first witness Don Salvador Vela, a resident citizen of the said town, and I administered to him in his proper person, which I certify I know, the oath, which he took, in full form, by God our Lord, and the sign of the holy cross, under which he declared he would speak the truth as to what he might know and should be asked, and being interrogated as I have directed, he says that the potrero which he knows as that of Esperitu Santo, has as its boundaries and natural outlines (terminos y linderos) the Arroyo Colorado, the lagunes (lagunas) of the sea, the Rio Grande, and on the side of the entrance, a thick wood; that he knows that the first who settled the said potrero was Don José Salvador de la Garza, who has had and still has possession of it with various others, whom some time afterwards he established there under his protection or control (los puso á su arrimo) it being about eight years since he settled it; that he knows that these lands are vacant and a part of the public domain (valdias y realengas,) because he has known no owner of them; that this is the truth upon the oath which he has taken, and this he confirmed and ratified; he said that he was seventy-five years of age, and that the general prohibitions of the law did not apply to him, and as he did not know how to write, I, the aforesaid judge, did so for him, before me and my assisting witnesses with whom I act as an examining judge (juez receptor), all of which I

certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Lorenzo Treviño ; assisting witness, Tomas Flores.

[2d Witness.]

And immediately thereafter, before me, the aforesaid judge, and my assisting witnesses in the present investigation, D. José Salvador de la Garza offered as his second witness D. Juan Damacio Peres, a Spaniard, and resident citizen of the said town, and I administered to him in his proper person, which I certify I know, the oath which he took, by God our Lord and the sign of the holy cross, upon the faith whereof he declared he would state the truth in all that he might know and should be asked, and being interrogated, as has been usual, he said, the party being present to see him take the oath as in the preceding examination, that the potrero which they called that of the Esperitu Santo, had upon one side, and to form its figure (por un lado tiene forma) the Rio Grande, Lagunas of the Sea, Arroyo Colorado, and a thick wood (brenal espeso) or thicket, on the side of the entrance of the said potrero, in the centre of which it has some ponds when it rains, which slowly dry up, but the first who entered it by breaking through the thicket was D. José Salvador de la Garza, who possessed it, and still possesses it, with another, whom he put there, under his protection (a su arrimo metio) long after ; that it must be something like eight or nine years since the said de Salvador has settled it ; that he knows the said lands to be vacant, uncultivated lands, belonging to the public domain of the king, and that he has positively not known or heard mention of any other person as having settled (poblado) the said lands ; that this is the truth upon the oath that he has taken, confirming and ratifying it ; he said that he was fifty years of age, and that the general prohibitions of the law do not apply to him ; and as he also does not know how to write, I, the said judge, have done so, before me and my assisting witnesses, acting as an examining board (por receptoria) as before stated, which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness José Lorenzo Treviño ; assisting witness, Tomas Flores.

[3d Witness.]

In the town of our lady Santa Ana de Carmago, on the sixteenth day of the said month and year, before me, the above mentioned judge, and assisting witnesses D. José Salvador de la Garza presented, as his third witness, D. Juan Bautista Garcia, a resident citizen of said town, and I administered to him in his proper person, which I certify I know, the party being present, the oath, which he took according to law, by God our Lord and the sign of the holy cross, upon which he declared he would state the truth as to what he might know and should be asked ; and being interrogated as is required, he said : that he has known the Potrero which they now call that of the Esperitu Santo, about twenty-six years, in expeditions undertaken against the savages, as one of the first settlers of this town, and that he has always known it as an uncultivated, vacant land, belonging to the public domain of

the crown, and that the Arroyo, now known as the Colorado, forms it upon one side, the Lagunes immediately communicating upon the sea upon another, and on the third and southern side the Rio Grande, closing on the west with a thicket; that he knows, as public and notorious, that D. José Salvador de la Garza opened and broke through this thicket, making an entrance in it, when he stocked (settled) it, which must be eight or nine years ago, without any other person having done so before, and that he knows and is sure that he has maintained under his care and protection other persons whom he placed in it after he had entered and stocked (settled) the said land, in which he has seen some fences and bars (tromcas) which serve to close the entrance, all made by the said D. José Salvador de la Garza, who has engaged and kept in it his stock up to the present time, and that there are no permanent watering places besides the Rio Grande; that this is the truth upon the oath that he has taken, and he confirmed and ratified it, and said that he was seventy years of age, and that the general prohibition of the law did not apply to him, and that he does not know how to sign. I sign with my assisting witnesses *witnesses* with whom I act, as has been said, which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Lorenzo Treviño; assisting witness, Tomas Flores.

[4th Witness.]

In the aforementioned town, and on the aforementioned day, month, and year, before me, and in this tribunal, and before the assisting witnesses, the party presented as his fourth witness for the present examination Don Lorenzo Lerna, a resident citizen of this town, and I administered to him in his proper person, the oath which he took, in all form of law by God our Lord, and the sign of the Holy Cross, upon which he declared he would state the truth as to what he might know and should be asked, and after the party who was present to see him take the oath had retired, he said that he is one of the first settlers of this town, and has known it for a period of thirty years, but on account of his having been a soldier, and for this reason having been assigned to various detachments from this province, he was never in those times with his companions at the Potrero, which is now called that of the Esperitu Santo, but had on several occasions gone there himself, and knew it in consequence of having gone round the outside, where only Pagan Indians were living, until D. José Salvador de la Garza, in the year seventy-one, invited him to accompany him and examine the said Potrero, to see whether it offered any advantage for the protection of the stock (bienes) of the said D. Salvador, and accompanying him, they went together to examine it, and arriving at a thicket which was there, through which alone they perceived they could make their entrance easy, they did so with hatchets and knives, notwithstanding the danger with which they were threatened from the Indians, and having entered, they saw the latter retiring, upon which they determined to go through the whole of the Potrero, in which they spent six days; that immediately after the said D. José Salvador put in it his stock (bienes de campo,) improving it (poblandole)

with buildings (hacales;) that he made fences and cattle pens, (corrales,) and that the place of his entrance may be recognized by the bars (trancos) in it; by which he knows, by actual observation, that the said Potrero was not settled before by any other person, and that the said thicket, Arroyo Colorado, Lagunas of the sea, and Rio Grande form it; that it is an uncultivated tract of land, full in all parts of small streams and ponds, which the freshets and rise of the Rio Grande, Arroyo Colorado and Lagunas of the sea, which inundate the said Potrero, have made, the men and animals then preserving themselves upon some elevations which it had, all which he has seen in passing over it afterwards on repeated occasions; that he knows that D. José Salvador de la Garza aforesaid has conciliated and obtained the good will of these Indians, by giving them beeves to eat, and clothing to wear, and conducting himself towards them with such courtesy, (urbanidad,) that he has brought some of them, both men and women, into the bosom of our Holy Religion, and caused them to be married by our Holy Mother Church, so that he is well known to keep some of them in his own house; and he also knows that within the four years that the Potrero has been settled, he has placed in it some residents, as well of this town as of that of Reynosa, and various others from beyond the frontier, who are now living in their respective settlements, by which he knows, and it is true that the said Potrero and its lands are vacant and belong to the public domain of the crown; all of which he declares by the question put to him, and he confirms and ratifies it to be true upon the oath which he has taken; he said that he was sixty years of age, or a little more or less, and did not know how to sign, and that the general prohibitions of the law did not apply to him. I, the said justice (teniente) and commissioned judge, (Juez comisionado,) have signed before me and my assisting witnesses with whom I act, as has been said, all of which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Antonio Treviño; assisting witness, Tomas Flores.

In the said town, on the same day, month, and year, before me, the aforesaid Judge, commissioned for these proceedings, and my assisting witnesses, D. José Salvador de la Garza, presented in this Tribunal as the fifth and last witness in this investigation, D. José Xabier Salinas, a resident citizen of this Town, and I administered to him in his proper person, which I certify I know, the party being present, the oath, which he took according to law by God our Lord, and the sign of the Holy Cross, upon which he declared he would state the truth as to all which he might know and should be asked, and being interrogated as is ordered, he said: That he is one of the first who settled and built this town; in doing which he passed, on many occasions, along the outside of the said Potrero, which is now called that of the Esperitu Santo; and that, although he was on some of these occasions accompanied by others, he never determined, on account of the danger from Indians, to enter and examine the said land, but that it was known that a creek (Arroyo) known as the Colorado, lagunas opposite the sea, the Rio Grande, and a dense thicket, made and formed the said Potrero, in which only Pagan Indians dwelt, and that it remained without being settled by any other person until the

year seventy-two, D. José Salvador de la Garza entered to settle it with his stock, and by building dwelling-houses, cattle-pens, and fences, that he where he has remained, without having ever been dispossessed of it, and still remains up to the present time; that he knows that something like four years afterwards he established (agregó,) as well in the said Potrero as in its immediate neighborhood, several other residents of the towns of Reynosa and Camargo; that it is a country, as is publicly known as to most or the whole of the Potrero, which is covered by water with the freshets which often happen in the said Rio Grande, Arroyo Colorado, and Lagunes, as is confirmed by its being notorious that the said D. José Salvador de la Garza was once surrounded by water, (islado,) and was not able to escape for some days, and this danger threatens him in such freshets with destruction to himself and also the loss of his property (bienes;) that he has always known and considers the said Potrero as vacant, and belonging to the Public Domain of the crown; that this is the truth upon the oath that he has taken, which he confirmed and ratified; he said that he was seventy-four years of age, and that the general prohibitions of the law did not apply to him, and this he has signed before me and assisting witnesses, acting as an examining Court (por receptoria) as above mentioned, all of which I certify. JUAN ANTONIO DE ECHAVE. FRANCISCO XAVIER SALINAS. Assisting witness, José Antonio Treviño. Assisting witness, Thomas Flores. And this examination, which was taken officially, being completed, they proceeded to the actual inspection (vista de ojos) in the following form:—

[Actual inspection.]

In the said estate (Estancia) of the Esperitu Santo, on this the twenty-sixth day of the said month and year, I, the said Judge, accompanied by my assisting witnesses, and all those above named, who appeared in consequence of the citation made to them, taking as a guide D. Lorenzo Leona, on account of the complete acquaintance he has and enjoys (que viene y le assiste) with the said Potrero, in respect to the recesses, bends, and elbows (rinconados balsas y recodas) that, as we are informed, the Rio Grande del Norte, the Lagunas of the Sea, the Arroyo Colorado, which form it make the expert as Surveyor going likewise with us, went into the field to begin, as I did begin, the actual inspection (vista de ojos) of the aforesaid land, and the places which surround it, water holes, and the nature of the ground (terreno), and for proof thereof I have made this official statement (lo puse por diligencia), which I have signed before myself and my assisting witnesses, with whom I act as examining Judge (Juez receptor), all of which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Rafael Lopez. Assisting witness, José Benito Lopez.

In the aforesaid estate, on the thirtieth day of the said month and year, I, the aforesaid Judge, having terminated the actual inspection of these lands of Esperitu Santo, which was done in company with the appointed Surveyor, D. Manuel de Sierralta, and other persons

already mentioned. I have noticed the courses of its lines, the centre, and the nature of the ground, which is uncultivated (*criaso*) on account of the many breaks and (derrames) which it contains, as well as the expanded and large ponds which surround, and prove that the most or the whole of the said Potrero is inundated by them in the rises of the said Rio Grande and Arroyo Colorado especially, since from these last issue the said ponds and lakes, the latter being fed equally by the high tides of the sea, so that when they united the danger before spoken of is apparent, (I mean) that of being drowned with no chance of escape except upon some small eminences that the said Potrero has, or by the people going in boats to dry land (*tierra firmà*) at a great distance, as the water extends upon these occasions as much upon one side as the other from the river, and from the Arroyo, so that the most of the said ground of this Potrero is only covered with a kind of grass called *sacaquite*, not at all fit to be eaten by any animal, as is known by experience, it being an herb which usually grows upon salt marshes near the coasts of the sea, and the said Potrero contains no permanent watering-place except the Rio Grande, and when it rains, some pools which dry up in a short time, this also happening with the said ponds (*esteros*), and then the waters of the Arroyo Colorado, on account of their brackish and bitter nature, are like those of the sea, on which account it is only useful as regards horses and all other stock by the security and protection which is offered on account of the said potrero not having but one entrance and exit through the dense thicket which runs across it from the Arroyo Colorado to the Rio Grande, all of which I set down in this official statement, (*pengo por diligencia*), signing it before me and the rest of those cited and present who have learned the same facts, and the surveyor, acting as an examining court, as has been said, all of which I certify. JUAN ANTONIO ECHAVE. MANUEL DE SIERRALTA. JUAN JOSE DE LA GARZA FALCON. BARTOLOME TREVINO. PEDRO VILLAREAL. JOSE ANTONIO DE LA GARZA FALCON. JOSE SALVADOR DE LA GARZA. Assisting witness, José Benito Lopez. Assisting witness, José Rafael Lopez.

[Continues.]

In the said estate, named the *Esperitu Santo*, on the first day of the month of July of the aforesaid year, I, the aforementioned judge, in consideration of the completion of the actual inspection (*vista de ojos*) of the said potrero, and inasmuch as no opposing circumstance has been raised by it to impede or prevent the survey and examination (*reconocimiento*) of its lands as is ordered to me, in consequence thereof it is my duty to order, and I do order, to pass to its execution, and it must begin from a watering place (*Abrevadero*) that there is on the Rio Grande, where it forms a corner with the fence which runs to this place from the north to the south, which is the line of the thicket which comes from the Arroyo Colorado in the same direction, and for its proper effect I set it down in this official statement before me and the witnesses with whom I act as an examining court, as has been said, which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Rafael Lopez. Assisting witness, José Benito Lopez.

In the watering place above mentioned of the Rio Grande del Norte, being in it on the second day of the said month and year, I, the aforesaid judge, accompanied by assisting witnesses, adjoining proprietors, and neighbors, (colindantes y circumbecinos,) as well within as without the said petrero, which are the same, since there are no others than those already named for the actual inspection, I ordered D. Manuel Sierralta, the surveyor, already nominated and sworn in due form for this survey, to begin to exercise his office, and he, before me, the witnesses, and the other persons present as aforesaid, took a staff of the usual length, and attaching it to one of the ends of the measuring cord, (cordel,) prepared for this purpose, measured away from the said staff, *measured away from the said staff*, and gave the cord fifty varas in length, the vara being that used for measuring cloth in Castile, and the one customary in this Province of New Santander; and having measured off the said fifty varas, he attached the said cord at the place where they ended to another staff of the same size, so that between both there were only measured the said fifty varas, and setting a compass he ran this the first time from the aforesaid watering place, course east, going in a straight line along the meanders of the said Rio Grande, down the stream, arriving with five hundred and eighty-four "cordelados" [measures of fifty varas each] at the aforesaid river, at a (derrame) from it, by which in its freshets it fills with water a tank (tanque) which was left above (que quedo por la parta de arriba) at a distance of six cordeles, which was left as a natural landmark, (por lindero,) in which place I ordered the denunciante, D. José Salvador de la Garza, to establish a more exact fixed mark (mas st'nal fija) as a corner, (mojonera,) there remaining on this line to the south some recesses and elbows, (bolsas y recodas,) which the bends of the above mentioned Rio Grande formed; that the surveyor said he would notice after completing the other lines in order to include in the entire amount of the square leagues (sitios) those which might be in the said bends and elbows, and this line being concluded up to the said place of the

I have set it down in this official statement, which, as well the said surveyor and interested party as the rest of the adjoining proprietors and neighbors who were knowing to this fact, have signed before me and the assisting witnesses, acting as an examining tribunal, as has been said, all of which I certify. JUAN ANTONIO DE ECHAVE. MANUEL DE SIERRALTA. JUAN JOSE DE LA GARZA FALCON. JOSE SALVADOR DE LA GARZA. PEDRO VILLAREAL. JOSE ANTONIO DE LA GARZA FALCON. BARTOLOME TREVINO. Assisting witness, José Benito Lopez. Assisting witness, José Rafael Lopez.

[Continues.]

In the said place of the of the river, in which ended the first line, on the third day of the said month and year, before me, witnesses, and the other persons, the said surveyor measured the surveying cord, marking it as he had made it, fifty varas in length, by the aforementioned vara for measuring cloth in Castile, as upon the foregoing day, and setting the compass, he ran this second line

straight to the north, and at two hundred and six cordelados, we came to the head of one of the lagunes of the sea, besides others that were seen to the east, and having gone round the head of the first one and various others that succeeded, communicating with each other, following always the north course, the surveying cord came into a bend or little pocket, which the said lagunes make, these being on the west and east, until they reach the "lagunas madres," which are formed by the Arroyo Colorado, and into which its waters empty and flow, there being far within this line, something more than a league, a place improved, (poblado,) with houses (hacals) and cattle-pens, named San Juan del Retiro, where are living some herdsmen, (vaqueros,) servants of the aforesaid D. José Salvador de la Garza, and there being no more land on account of our having reached the said lagunas madres, and having nothing before us but water, the second line amounted to nine hundred and ninety-three cordeles in the whole, the cord having been measured over again several times in the distance ran, as was also done on the first day, all of which I set down in this official statement, which the surveyor and interested party, and the others who accompanied us and were knowing to the facts, have signed before me, and the witness with whom I act, as has been stated, all of which I certify. JUAN ANTONIO ECHAVE, MANUEL DE SIERRALTA, JUAN JOSE DE LA GARZA FALCON, José Salvador de la Garza, Pedro Villareal, José Antonio de la Garza Falcon, Bartolome Trevino; assisting witness, Benito Lopez; assisting witness, José Rafael Lopez.

In the place on the banks of the Arroyo Colorado, where it begins and expands its broad lagunes, (lagunas madres,) at which place we arrived by going round and even working through the water of the lagunes, that we had to the west on the second line, when we entered by it the bend or little pocket before mentioned, which thus remains as a natural landmark, together with an artificial one (señal) which was placed there, while at the same time another was placed where the third line began by measuring from one to the other in the Potrero del Esperitu Santo at a distance from the lagunes, which circumstance induced us to execute the survey in this way on account of finding no firm ground or foothold there, (ningun pasó), in which place, before our witnesses, the denunciante, and others already mentioned, the surveyor again measured his cord, which he made fifty varas from staff to staff by the same vara as aforesaid, and setting his compass, began the third line along the meanders [margin] of the said creek (arroyo) up the stream, course west, and at three hundred and nine cordeles, the aforesaid surveyor noticed that the said creek turned south, as though crossing the Potrero del Esperitu Santo, on which account following the said course to the south as well as the said creek permitted, keeping always near its bank at a distance of a hundred cordeles, it was found impossible to follow any line further on account of the country being inundated by a large lake, and little streams [tributaries] running into the Colorado, into which they emptied their waters, as also by a dense and impassable thicket, which joined the said Arroyo Colorado and lake, which entirely prevented the running of this line, but those experienced and well acquainted with the bends which the said Arroyo made, declared that at some distance beyond the place

where we were compelled to stop, the aforesaid Arroyo turned again to the west, as to which line the surveyor agreed with the experts and the interested party that it ought to have, and did have, the same number of varas in length as the first line on the Rio Grande—that is, five hundred and eighty-four cordeles, on account of the second line running along the lagunes (or the second line of the lagunes) (*la segunda linea de los lagunas*) from the south to the north, and by our actual inspection (*vista de ojos*) these corresponded to it for the fourth line, one from the north to the south, as indeed the fence seen upon this line shows; and on account of this calculation the interested party was ordered to establish an artificial landmark, which might serve as a corner, (*señal que serviera de Mojonera*), and this official statement all the proper persons, and those who were knowing to the facts, have signed before me and the witnesses, with whom I act as an examining tribunal, as has been said. All of which I certify. JUAN ANTONIO DE ECHAVE. Manuel de Sierralta, José Salvador de la Garza, Juan José de la Garza Falcon, Bartolome de Trevino; assisting witness, José Rafael Lopez; assisting witness, José Benito Lopez.

In the aforementioned place of the thicket and the lake, which prevented the running of the third line aforementioned, which line was concluded, or came to an end (*se concluijo*) on the seventh day of the said month and year, the fourth line followed; on the eighth day succeeding, in the present and aforesaid month, and as to this last line, it was likewise impossible to follow it up with the surveying cord on account of the impenetrable nature of the thicket, the lakes and drains (*resacas*) which, interwoven with the said thicket, made it difficult by the necessity of deviating from the straight course (*por in dando vuelta*) in most of the said line; but it was agreed to by the experts and the intelligible men who accompanied us that the said insurmountable difficulty (*dicho imposibilidad*) continued along the said line for a distance of five leagues—and in this the interested party agreed, till coming, as we in fact came, out at the fence, which he had set up on this front in the clear ground, (*en lo raso*), at which place the surveyor aforesaid measured his cord, and making it fifty Castilian varas, set his compass, and observed that the said fence ran from north to south, and pursuing this course, we came at two hundred and twenty-five cordeles, to the watering place where this survey commenced, on the Rio Grande del Norte, where it closed, and uniting [adding] the two hundred and twenty-five cordeles with the five leagues through the thicket and water, they make up the quantity of six hundred (seven hundred) and twenty five cordeles; and the said surveyor having already made a calculation for this purpose of the bends and elbows, which the said Rio Grande forms, belonging to the first line, he declared that in these last, and under the aforesaid four lines, were contained fifty-nine square leagues (*Sitios de Ganado Mayor*) eleven and one-half caballerios of land in favor of his Majesty, according to his acquaintance [skill] with [in] this art of surveying, ratifying this by the oath which he has taken; all of which I set down on this official statement before me and my assisting witnesses, the persons already mentioned being present, who signed on their respective accounts, and as to those who could not write, I, the chief justice of the

town of Camargo, and judge commissioned for this business, have done so for them, acting as an examining tribunal, as has been said. I certify. JUAN ANTONIO DE ECHAVE, Manuel de Sierralta, Salvador de la Garza, Juan José de la Garza Falcon, Bartolome Trevino, José Antonio de la Garza Falcon; assisting witness, José Rafael Lopez; assisting witness, José Benito Lopez.

[Continues.]

And notwithstanding that two of the adjacent proprietors made opposition, inasmuch as they did not present their objections in form, nor exhibit their titles, the justice acting as commissioner, proceeded to give the public notices required by law, and a day having been appointed for the sale, it was made in the following form:

[Sale.]

In this said town of Santa Ana de Camargo, on the twenty-second day of the said month and year, and the last day of public notice for the sale, I, the said commissioned judge, ordered the drum to be beaten in the same place directly after high mass, and by the voice of the public crier I gave public notice of the sale before the commandant, (el Sor. Capitan,) the reverend father the priest of this town, various neighbors, and Don José Salvador de la Garza; and seeing that the hour had now arrived in which it is and has been usual and proper (regular) to make the said sale, I order the last call to be given, and there was no one who would bid (pusavia) more than twenty dollars, which D. José Salvador de la Garza has bid, and the said estate (agostadero) was adjudged to him after twelve calls, (con doce pregones,) which I made and repeated on this same day of sale, and so that he, D. José Salvador de la Garza, might have it for his good profit, (buena pro,) and he signed with me and my assisting witnesses, with whom I act as an investigating tribunal, which I certify. JUAN ANTONIO DE ECHAVE, JOSÉ SALVADOR DE LA GARZA; assistant-witness, José Benito Lopez; assisting witness, José Rafael Lopez.

[Acceptation.]

In the aforesaid town, on the said day, month, and year, before me, the said justice, (Teniente,) seeing that the thirty days for the daily notice of the sale which I was ordered to give by this order of the the government (este superior despacho) were entirely completed, as well as the day itself which I had fixed for the sale, the said D. José Salvador de la Garza, on his part, was content; and he having expressed his compliance, and accepted the said Potrero, before the commandant, Capitan D. José Antonio de la Garza Falcon, the reverend priest of this town, Brother Francisco Villuendas, the regidor having the first vote, Don Miguel Chapa, the procurador, D. Augustine de la Garza, and other citizens who were present; and in order that this may appear in all time to come, I make this official statement, which the said D. José Salvador de la Garza has signed with

me and my assisting witnesses, acting as an examining tribunal, all of which I certify. JUAN ANTONIO DE ECHAVE, JOSÉ SALVADOR DE LA GARZA ; assisting witness, José Benito Lopez ; assisting witness, José Rafael Lopez.

[Petition.]

I, Balthazar de Vidaurri, for D. José Salvador de la Garza, a resident citizen of the town of Camargo, in the colony of New Santander, in the proceedings as to the denunciation of lands, to which he has given the name of Esperitu Santo, according to the record, (escrito,) of sixty-seven leagues, part the second, so far as the law allows me to state ; that an order having been issued to take the steps prescribed in the royal decree (acordado) for the grant and sale of these lands, all these steps were taken by the justice of the said town of Camargo, as the paper book, (cuaderno,) in which he gives an account of his proceedings, shows, without making any other opposition than that of Don Bartolome Fernandez, an adjacent proprietor on the side of the entrance of the Potrero, with respect to the fourth and last line, on the ground of its having happened that one of his estates, (tierras,) which ran into the Potrero, on the east to a dry well, was crossed and intersected by this line, that he was asked for his titles, and did not exhibit them, but a period of three months was assigned to him, commencing from the first of September of the year last past, to appear to sustain his opposition in this special tribunal, and he not having done so, I charge him, formally, with contumacy (rebeldia) on the fifty-second leaf. With respect to the sale of the sitios and caballerias, I ought to represent to your honor that they are valued at two dollars per sitio, and one real per caballeria ; but as my principal has suffered so much opposition as the proceedings prove, and his opponents knew the necessity he was under to have the lands on account of his property [stock] (bienes) before mentioned, to which he was greatly attached, having been established in there, it was by a motive of malignity, and to do him an injury, as the justice (teniente) states, that they bid up the sitios to twenty dollars. This is an extraordinary disproportion, since what they made him pay is with reference to the price of the valuation, nine times more than the proper price, and it is not permitted, even in public auctions, to sell with such extremes, (en estos terminos,) for in these auctions bidders cannot go beyond the highest price, [i. e., fixed as the just valuation,] and this is much more true when the affair is effected with bad faith, and a disposition to do an injury to him who buys from necessity, as was the case in the present instance : wherefore, I pray your honor that while you are pleased to approve the proceedings had, and the sale made to my principal, you will be pleased also to reduce the price to what will be just, and this your prudent judgment will determine, and in case this cannot be done, (which he hopes will not be the case,) my principal will have to pay the full amount of the twenty dollars for the sitios, and of the real for the caballerias, which are eleven and a half, and fifty-nine sitios, in order that the necessary instrument to serve him as a title, and by virtue of which he can enter into posses-

sion of the lands if he should desire it, may be in good time delivered to him, and as to all this submitting it to the examination of the attorney of the treasury, (abogado fiscal,) I pray your honor to be pleased to order, and I here ask, and I take the formal oath as to all necessary averments, &c. DOCTOR MANUEL DE GARISNAIM; ARAJUTI; BALTASAR DE VIDAURRI.

[Order.]

Mexico, the seventeenth of July, one thousand seven hundred and eighty, to the attorney of the treasury (or of the government) the Oider and special judge has so ordered, (as above prayed,) and signed with his rubric (marked with a rubric) before me. JOSÉ MONTALVAN, Royal and Provincial Notary.

[Reply of the Attorney of the Treasury.]

The Attorney of the Treasury, upon examination of these proceedings on the denunciation made by Don José Salvador de la Garza, of the Potrero called that of Esperitu Santo in the colony of New Santander, says, that by virtue of the second order issued for the proceedings under the royal decree, (acordado,) the statements of the party, and these taken officially, were received in the fifth paper-book, by which the law was shown (resultó) to belong to the public domain of the Crown, (realenga,) and the denunciation having been publicly commanded (publicado) on the thirty-first leaf, the actual inspection (vista de ojos) and survey followed, in which it was found (reconoció) that the Potrero contained fifty-nine sitios de ganado mayor, which were rated at two dollars, besides eleven and a half caballerias, estimated at a real, at which prices the denunciante made a bid; and public notices having been given, another third party appeared, who made various bids, until, on running up to twenty dollars for each sitio, the sale was made to the denunciante himself, without any important defect appearing in the said proceedings, since it is of no moment that the denunciation was published after the testimony had been taken; and though this did not precede the citation of the neighbors, (circunvecinos,) on account of the distance of their residences, they were received for the actual inspection (vista de ojos) and survey in which they were present, according to the thirty-third leaf on the reverse and the following. The matter most worthy of note which appears, [in the proceedings,] is the opposition that D. Bartolome Fernandez made on the fourth leaf, saying that by the line which had been run from the north to the south, some land of his was taken, since his tract ought to extend to a dry well which had been adopted as a boundary in the surveys made, in favor of D. Narciso Cavazos; but on notifying him on the reverse of the leaf to exhibit his titles, he answered, that they were in this tribunal, on which account he was given, according to leaf fifty-two, a period of three months, counting from the first of September of the year last passed, to appear in this tribunal to support his opposition, which he has not done in more than ten, recurring from that time. To this it may be

added, that the proceedings and surveys which were made upon the application of D. Narciso Cavazos, are those that begin the first paper-book (quaderno) of these acts, (autos,) in which it appears on the thirtieth leaf that they ran below the watering place (abrevadero) of D. Eugenio and D. Bartholomé Fernandez, and these [surveys] were disapproved by your honor on the reverse of the fifty-first leaf, on account of its having appeared that the denunciante, D. José Salvador de la Garza, had settled (poblado) the Potrero from the year seventeen hundred and seventy-one, and had denounced it in that of seventy-two before the lieutenant general of the colony, and that various other persons had joined him under his protection and with his consent, and placed there their stock, among whom was the aforesaid Cavazos, and that the latter, notwithstanding this, denounced almost all the Potrero, giving it the name of Santa Rita; and after the proceeding required by the royal decree (acordado) had been had, an application was made by the denunciante, and they were declared of no avail, and ordered to be made again in favor of D. José Salvador de la Garza, who was the first to settle and denounce. Whence it follows that the surveys made upon the application of Cavazos were of no benefit to him, nor to Fernandez, who has exhibited no other title, and the more readily, as it may be inferred that he has also entered under the protection of the denunciante, or of some one of those to whom he had granted permission to introduce their stock. It ought also to be observed that the valuation of the sitios was two dollars for each one, and that on account of the bids they were knocked off to the denunciante for (at the rate of) twenty dollars; on which account he asks the price to be reduced to what the prudent judgment of your honor may think right, although in case this is not done, he states that he will have to pay the full amount, compelled thereto by necessity; and on this point it is to be noticed that on the fifty-eighth leaf of the paper-book the commissioner (comisario) shows that the citizens of the town of Reynosa, to injure the denunciante, ran up the price to twenty dollars. It also appears by the first paper-book, on the reverse of the fifty-eighth leaf and the following, that the said citizens, influenced from that time forth by D. Narciso Cavazos, filed their opposition (pusieron) on the seventy-fourth leaf to the grant of these lands to Garza; and, collecting together, as the justice (Teniente) of the said town gives us to understand, threw obstacles in his way by preventing the performance of the proceedings required by the royal decree, until a second order was issued committing them to the Justice of Camargo. It likewise appears on the reverse of the thirty-fourth leaf of the first paper-book, that when the first proceedings were had on the application of Cavazos, each sitio de ganado mayor was valued at twelve reals, to which the Attorney of the Treasury (Abogado Fiscal) ought to add with the good faith which belongs to his office, that in the internal provinces (provincias internas) and in distant places sitios de ganado mayor are generally valued at these prices of twelve reals and two dollars, or of three or four dollars, and in some occasions at one dollar. And that in the proceedings under his custody as to the estate of Carrisitos, in the same jurisdiction, they are rated at two dollars, and in others upon which he is engaged, as

to lands surveyed between the towns of Reynosa and San Fernando, denounced by D. Antonio de Urizan, the valuation was made at four dollars, by which the Attorney of the Treasury does not oppose your honor exercising the functions belonging to your office, and reducing the price to the amount which you may think right. Upon consideration of the whole matter, your honor will be pleased to approve the proceedings had, adjudging or granting by way of sale to the denunci-
 ciant, D. José Salvador de la Garza, the fifty-nine sitios de ganado mayor, and eleven and a half caballerias of the Potrero del Esperitu Santo under the natural outlines (linderos) which the surveys state, (que expresan las medidas,) and ordering that when the amount which the sale brought, or that to which your judgment may reduce it, is fully paid, and the duty of "media-annata" is satisfied, a report be made with these proceedings annexed to the royal audience, for the confirmation, if such shall be their supreme pleasure, and that after their return (*i. e.*, the proceedings) the corresponding title be issued. Mexico, and July twenty-second, one thousand seven hundred and eighty. Licenciante MARTIN DE ARAMBURN.

[Order.]

Mexico, the twenty-ninth of July, one thousand seven hundred and eighty. In consideration of these proceedings, together with what is asked by the attorney of the treasury, I approve the proceedings had, and I adjudge and grant by way of sale (*hayo adjudicacion y merced, pro via de venta*) to D. José Salvador de la Garza, the fifty-nine sitios de Ganado Mayor (square leagues) and eleven caballerias of land under the natural boundaries (linderos) which the surveys state, (que expresan los medidas.) And in consideration of the circumstances of the affair, and the ill-designed vexation of the bids that were made, it being apparent that this was done with the intention to injure the denunci-
 ciant, by reason of the permanent establishment (*radicacion*) of this property (*bienes*) in the Potrero del Esperitu Santo, and it appearing as it does appear in this tribunal, by different documents (*espedientes*) which we have preserved, that the sitios de Ganado Mayor in those places are valued and sold, the highest at four dollars, I think it proper to reduce the price from twenty dollars to that of eight dollars, to which sum it amounts by quadrupling the value of these sitios; and upon the full payment into the royal treasury [chest] (*caja*) of this Court, of the four hundred and seventy-two dollars, to which this amounts, together with the eleven reals for the eleven caballerias, and their media annata, these proceedings (*autos*) shall pass to the royal audience for the confirmation of this grant, and when they are returned, notice of it shall be given for the issuance of the title or whatever may be fitting. D. Francisco Xavier de Gamboa, of the Council of his Majesty, his oidor in the royal audience of this New Spain, and special judge of sales and purchases of vacant and public (*realengos*) land and waters, has thus ordered and signed. GAMBOA. Before me, JOSE DE MONTALVAN, (*Escribano Real y de Provincia*), Royal and Provincial Notary.

[Order.]

To the royal officers of the royal treasury and chest (hacienda y caja) of this Court: Be pleased to order the receipt of four hundred and seventy-three dollars, three reals, at which Don Francisco Xavier de Gamboa, as special judge of vacant and public (realengos) lands and waters, has made adjudication and grant by way of sale to Don José Salvador de la Garza, of fifty-nine sitios de Ganado Mayor, and eleven caballerias of land, within the limits of the colony of New Santander, jurisdiction of the new kingdom of Leon. And this amount shall be placed to a separate account, in consideration of what is usual for its remittance to Spain in the customary form, returning this order endorsed, that it may appear in the proceedings on this subject.

Mexico, the twenty-ninth of July, one thousand seven hundred and eighty. JOSE DE MONTALVAN, Royal and Provincial Notary. Entered on the two hundred and forty second leaf (fajas) of the book of orders villetes on the third of August, one thousand seven hundred and eighty. GUERRO.

[Another.]

On the third of August, one thousand seven hundred and eighty, the four hundred and seventy-three dollars, three reals, (terminos,) which this order mentions, were paid into the royal chest (caja.) MEXIA, CORILLA.

[Certificate.]

On the third of August, one thousand seven hundred and eighty, D. José Salvador de la Garza, to whom the especial judge of lands has adjudged and granted, by way of sale, fifty-nine sitios of Ganado Mayor, and eleven caballerias within the limits of the colony of New Santander, paid in reals of this Court, eleven dollars, six reals and eight grains, which the royal duty of "media annata" imposed, computed at the half of what at five per centum the amount of four hundred and seventy-three dollars, three reals brings, which latter sum he has paid, (servido,) as appears by the order, which, with the endorsements of the royal officers, remains in the general office of accounts of the said royal duty under my charge. In testimony whereof, and that it may appear wherever proper, I give the present certificate in Mexico on the said day, month and year. LASARO DE ARROCETE Y GARZA.

[Reply of the Fiscal, nearly effaced.]

Very Powerful Lord: The only thing which can be found to prevent (como embaraso) the grant and the sale of the lands of the Potrero del Espiritu Santo, deserving the supreme confirmation and approbation of your highness, is that Don Bartolomé Fernandez has not yet been heard as to the opposition he made in respect to a certain

place in them, and likewise that the sale and adjudication (*remate*) has not been made for the price of twenty dollars, which the bidder, D. José Salvador de la Garza, offered for each sitio, being reduced by your especial judge to that of eight dollars, which seemed to him to be their just and true worth; and as to the first point, it must be supposed that the said D. Bartolomé Fernandez, although required, has not shown or exhibited the titles by virtue whereof he made his opposition, which circumstance persuades us that this opposition was entirely based upon the proceedings and surveys had upon the application of D. José Narciso Cabazos, which, as they were disapproved and annulled, could not give him any right, and this, together with the fact of his not having appeared in the special tribunal either in the three months assigned to him or in the other seven which have elapsed since, evidences a violent presumption that his opposition was malicious and unfounded, and raised (*deducida*) with the object of hindering and delaying the resolution of the matter to the prejudice not only of D. José Salvador de la Garza, but also of the royal treasury, in which account it is proper that it neither be considered as of moment nor worthy of such attention as to delay or suspend on its account the confirmation. And as to the reduction and abatement of the price of the sitios made by your special judge, although on the one side it must be considered that the cause of the sale of the said sitios coming to be made as high as twenty dollars, was that D. Salvador de la Garza had suffered so much opposition, and his opponents had learned the necessity he was in of obtaining these lands, on account of his stock having been established in them, so that assured by this circumstance that Garza would not hesitate (*repararia*) as to the price by a motive of malignity and to do him an injury, as the justice (*Teniente*) states, they ran up the sitios to twenty dollars; still, on the other side it is to be noticed that, as to the first bid of ten dollars, it cannot be said that there was fraud in it, because this bid is not so much out of proportion with the two dollars at which the sitios were valued, and this is more evident since (*y mas cuando*) as the attorney of the treasury (*Abogado Fiscal*) states, and the aforesaid order of your special judge supposes, in these provinces the sitios are generally worth two, three or four dollars, the distance from which sum to that of ten dollars is not so great that it can be said to exceed the bounds of justice, particularly if we reflect that things are worth as much as they will bring. On which considerations it is the opinion of the Fiscal (*i. e.*, the Attorney General, or chief law adviser of the crown,) that it would be proper to abate and reduce the amount of twenty dollars, at which the property was knocked off (*se verifico el remate*) to that of ten dollars, which is the mean, and at which the first bid was made. Wherefore your Highness will be pleased, if it should be your supreme pleasure to confirm and approve the grant and sale made by the special tribunal to D. José de la Garza of the lands of the Potrero, named the Esperitu Santo, under the limits and natural outlines (*terminos y linderos*) which the surveys state (*que expresan los medidas*) to do so with the proviso that he must contribute and pay the other two dollars belonging to each sitio, its price being reduced to that of ten dollars, the proceedings being then returned to the said

tribunal, in order that after the aforesaid payment is made, the corresponding title may be issued.

Mexico, October twenty-first, one thousand seven hundred and eighty. MERINO.

[Order.]

Mexico, December eleventh, one thousand seven hundred and eighty: Let it be reported with the proceedings annexed—The Regent VILLAVRUTIA, ASEDO, LICENTIAE FLORES.

[Order of the Royal Audience.]

In the city of Mexico, on the eighteenth day of July, one thousand seven hundred and eighty-one: The President Regent and Oidores (Presidente regente y oidores) of the Royal Audience of New Spain, having examined the proceedings which the Oidor Don Francisco Xavier de Gamboa, Special Judge of Lands and Waters, has reported as to the denunciation made by Don José Salvador de la Garza, of the Potrero named Esperitu Santo, in the colony of New Santander, in which are comprised fifty-nine sitios of Ganado Mayor, and eleven caballerias of land, in order that the adjudication which the said Judge, on the twenty-ninth day of July made of the said sitios and caballerias of land might be confirmed, reducing the price from twenty dollars, to which the bids that were made ran, to that of eight dollars, to which it amounts by quadrupling the estimated value of the said sitios, for the reasons which he states in his order; having examined likewise the proceedings that were had by the order of the said minister, for the said adjudication, and what is asked by the fiscal of his Majesty in his reply of the twenty-ninth of October of the same year of eighty, with the other fitting circumstances—Have said that they confirmed and have confirmed (confirmaron y confirmaron) the grant made by way of sale by the aforesaid special Judge of Lands to D. José Salvador de la Garza of the sitios and caballerias which his decree of the twenty-ninth of July of the year last past comprehends, with the proviso that the price of each one of them must be paid at the rate of ten dollars, and that consequently whatever with respect to this is wanting to complete this amount, must be contributed and paid, as likewise the sum of one hundred dollars as a contribution to his Majesty for the favor conferred in excusing him from having to apply to his Royal Person for the confirmation in the form provided in the royal order (cedula) of the fifteenth of October, one thousand five hundred and forty. And they likewise ordered and have ordered (mandaron y mandaron) that for the prompt fulfilment of all, everything respecting this subject be returned to the aforesaid tribunal of lands. And so they have decided and signed by their Rubrics—REGENTE VILLAVRUTIA, ASEDO, LUGANDO, JOSE MACSIMO VILLASECA. This corresponds with its original, to which I refer. I certify—JOSE MAXSIMO VILLASECA.

[Order.] [Villette.]

To the royal officers of the royal treasury and chest of this court: Be pleased to order the receipt from D. Salvador de la Garza of one

hundred and eighteen dollars, on account of the two additional dollars for each sitio of the fifty-nine which Don Francisco Xavier de Gamboa, special judge of land and waters, has adjudicated and granted to him by way of sale, in the colony of New Santander, as is provided by the royal audience, and also one hundred dollars that the said royal tribunal has fixed for the favor of the confirmation. And this amount shall be accounted for separately, in view of what is usual for its remittance to Spain, in the customary form, this order being returned endorsed, that it may appear in the proceedings upon the subject. Mexico, the twelfth of September, one thousand seven hundred and eighty-one. JOSE DE MONTALVAN, royal and provincial notary.

[Endorsement.]

Entered on the reverse of the hundred and seventy-third leaf of the book of orders (violettes) on the thirtieth of September, one thousand seven hundred and eighty-one. BARRANDEGUEL.

[Another.]

On the thirteenth of September, one thousand seven hundred and eighty-one, the two hundred and eighteen dollars contained in this order were paid into these royal chests, (cajas.) MEXIA, CARILLO.

[Certificate.]

On the thirtieth of September, one thousand seven hundred and eighty-one, D. Salvador de la Garza, to whom the royal audience of this capital has confirmed the grant which D. Francisco Xavier de Gamboa, as special judge of lands, has made to him of fifty-nine sitios, within the limits of the colony of New Santander, ordering him to pay two dollars more for each sitio, on the price for which the grant was made to him, has paid into the royal chests of this court sixteen dollars, five reals, nine grains, which the royal duty of media annata caused, in this form: two dollars, seven tomines, three grains, as the half of the income at five per centum per annum, of the sum of one hundred and eighteen dollars, the amount of the two additional dollars on the value of the lands, and the remaining thirteen dollars, six tomines, six grains for the favor of the confirmation; and as is shown by the order which, with the endorsement of the royal officers, remains in their general office of accounts under my charge. In testimony whereof, and that it may appear whenever proper, I give the present certificate in Mexico, on the said day, month, and year. On account of the absence of the accountant. DIEGO DE CAVAMBIAS.

[Continues.]

In consideration of the order of the president regente and oidors (presidente regente y oidores) of the royal audience, and in pursuance of a decree which I made on the tenth day of the present month, I

have determined to issue these presents, by which, exercising the powers conferred on me by the royal decree and instruction of the fifteenth of October, seventeen hundred and fifty-four, I declare that D. José Salvador de la Garza has complied with what is ordered in it, (i. e., the royal order,) and in the name of his Majesty, (whom may God preserve,) and without prejudice to any third person, or community of Indians, I admit him to purchase, I adjudge and grant by way of sale fifty-nine sitios de ganado mayor, and eleven caballerias of land, within the limits of the colony of New Santander, and not exceeding its natural boundaries, (linderos;) I supply and dispense with any defect of the grant or of vicious titles, and the defects in his possession of these lands, in order that he may not be obliged either on this account or on any other, to submit to a resurvey, (no se le oblige á medidas,) nor compelled to exhibit any other title to be given to him, since I now give him as ample and sufficient a title as he may have need of for the property (propiedad) of the said lands, whose fruits and whatsoever ways, (entradas y salidas,) uses, custom, and servitudes it has and possesses by custom and by law, (de fuero y de derecho,) he may enjoy without excepting or reserving anything from the said Don José Salvador, or whoever may have his title (causa) or represent his rights, with the proviso that he must stock and cultivate them with what they require in conformity with the ordinances of this kingdom which treat upon this subject; and that if at any time the whole or a part of the said lands is needed for any establishment (fundacion) of a fort, town, or place, he must leave what may be thus needed free and unencumbered (libre y desembarasado) on being paid what it may be worth at the time, (pagandole lo que a la razon valiere;) with which provisos let them (that is, the lands) be his, and his heirs and successors, as held and acquired by their own and a legitimate title of property, which is these presents. And I order the justice (teniente) of that province, that whenever the aforesaid Don José Salvador de la Garza may ask it, he shall give him entry, and put him in possession of the said lands, on the citation of the adjacent proprietors, notwithstanding any opposition, and without allowing any diminution of his rights, (in causar despago alguno;) and that the said justice shall not consent that he be deprived of the possession given him without being first heard according to custom and law, delivering to him when he is done (venenido) the proceedings which may be had in continuation of this title as a protection of his right. Mexico, the twenty-sixth of September, one thousand seven hundred and eighty-one—interlined fifty-one—incorrect—crossed out—exhibition—fifteen: of the province: thirty, and incorrect.

Don Francisco Xavier de Gamboa—by order of the oider and special judge—Joseph de Montalvan, royal and provincial notary—fees sixty dollars, including paper and writing, and no more, upon my oath, (asi lo juro.)—A Rubric.

Your honor admits to purchase, adjudicates, and grants, by way of sale, fifty nine sitios de Ganado Mayor and eleven caballerias of land within the limits of the colony of New Santander, to D. José Salvador de la Garza, in consequence of his having paid into royal the chest of this

court the amount of their price, the favor of their confirmacion, and the media annata charged to him, etc.

[On the last page.]

Mexico, September twenty-sixth, one thousand seven hundred and eighty-one.

Title of purchase, adjudication, and grant of fifty-nine sitios de Ganado Mayor and eleven caballerias of land (bende) made by the special judge of this kingdom, and confirmed by the royal audience, in favor of D. José Salvador de la Garza, a citizen of the town of Camargo, within the limits of the colony of New Santander, etc.

[On the first title-page of the old title.]

MEXICO, *September 26, 1781.*

Title of lands in the Potrero named that of the Esperitu Santo, margins (margines) of the lagunes of, the sea of the Gulf of Mexico, acquired (conquistados) by D. José Salvador de la Garza, resident citizen of the town of Camargo, in the year 1781.

A Rubric.

No. 35.

Passage from a letter from N. P. Trist to James Buchanan, dated Jan. 25, 1848, contained in Executive Document No. 52, 1st session 30th Congress, pp. 288-293.

I will now enter upon the subject of the treaty itself. The negotiation has been an exceedingly laborious one, and has occupied me without intermission for several weeks, during as many hours of every twenty-four as could possibly be given by me to work; and at no other period of my life, so strong has my health become, could I have undergone the same amount of labor.

Independently of the desirableness that the treaty should be a good one, the very peculiar posture of affairs in this country required that it should be such as to *protect itself* against the tempest of objections ready gathered to burst upon it, as the last resource for overwhelming and upturning the government, in order that the object may be accomplished of compelling our country into an amalgamation with this by rendering peace impossible in any other way. In order that it might so protect itself, it was requisite, not merely that the treaty should present the fewest possible features that could be objected to, but that it should, with reference to the fears, the suspicions, and even the prejudices of the Mexican people, carry upon its face as many positive recommendations as the nature of the subjects stipulated upon rendered practicable.

The plan upon which I proceeded to arrive at such a result was, in the first place, to request the Mexican commissioners to take the projét

was practicable to overstep this limitation to the transfer of territory is the small portion of the State of Tamaulipas, lying north of the Rio Bravo, and running a short distance up that river, which strip of country (extending either to the Nueces or as far as the San Antonio, I do not recollect which, and have not the references at hand) just as certainly constituted a part of that State, and not of Texas, at the time when the latter declared her independence, as it is certain that the counties of Accomac and Northampton do now constitute a part of the State of Virginia, and not of Maryland. Tamaulipas, however, has not made any protest on the subject, and it is believed that the boundary will be silently acquiesced in by her, and that, in view of the extreme peculiarity of the case under every aspect, this departure from the principle will not be made a point of by those in favor of peace.

The declaration with which the article on the boundary concludes was a *sine qua non* on the part of the Mexican government. I entertained no doubt whatever of its great importance, in respect to the ratification of the treaty; and my mind is far from being satisfied—such is the state of the public mind on this point—that the ratification would have been practicable without the aid which it gives. It was proposed that it should form an article apart, in terms which were inadmissible. In its present form and place, it is the result of repeated conversations, and was offered by myself; after which several modifications of phraseology were proposed from the other side, a part of which were acceded to and the rest not.

The *indemnity* or amount to be paid by the United States is five millions, less than the sum I was authorized by my instructions to pay for the same boundary, and which a compliance with those instructions would have required me to agree to pay, if necessary to secure that boundary, had a treaty been made in September last, or indeed at any time prior to the receipt of the counter-instructions, which (the *duplicate* thereof) first came to hand on the 16th of November, as the department was advised at the time. Taking into consideration, on the one hand, the time when the offer of twenty millions was made for the same boundary by the United States) not formally or upon paper, but by an intimation from me, which was just as binding,) and the period during which that offer had remained in force; and, on the other hand, the contents of the despatches received by me in November, and those of the President's message, as regards the increased expenditure of blood and treasure attending the prosecution of the war, in connexion with the continued disposition of our government not to exact more than a fair compensation for the expenditure: taking all these things into consideration, and taking also those twenty millions as the standard for my government in estimating the deduction which should be made from it, to bring the sum into accordance with those views, I have deemed it my duty to strike off five millions, and at the same time not to reduce the sum any lower. I made the offer of fifteen millions at once, announcing that it was the highest point to which I could go. I was not at the time aware that the Mexican plenipotentiaries had their hands tied against accepting anything less than thirty millions. This was the case, however, and it has continued to be the case down to this moment. The copies of

the treaty for signature now being made, must stop at the 12th article, until the government at Queretaro shall have consented to accept the fifteen millions, upon learning that I have remained inflexible on that point, even at the risk of the treaty being lost, and shall have made its election as to the mode of payment.

With regard to the *discharge and assumption* of claims, explanations will be found in the accompanying paper, marked *C*.

The condition of the inhabitants of the ceded or transferred territory is the topic upon which most time has been expended, in the modes stated at the commencement of these remarks. It constituted a subject upon which it was all important that the treaty should be guarded at all points, and should recommend itself as strongly as possible. Everything proposed on the other side in regard to it was inadmissible or objectionable in substance or form; and the articles, as they now stand, are the result of draughts prepared by himself, and were repeatedly amplified and otherwise altered, to meet the wishes of the Mexican commissioners. The stipulations regarding the incorporation of the inhabitants into our Union were restricted to the *Mexican* inhabitants, because, as the Mexican commissioners stated, their government has no right to enter into such stipulations in regard to the foreigners who may be residing in the transferred territory. The right of Mexicans residing there, to continue there, retaining the character of Mexican citizens, would follow as a necessary consequence from the right secured to such citizens by the treaty of commerce to go and reside there. On this point, and for the right secured to such citizens, resident or non-resident, to retain the landed property they may now own there, a precedent was afforded by our British treaty of 1794 (articles 2 and 9.) The liberty to "grant, sell, or devise the same to *whom they please*," I qualified by restricting the right of purchase to *Mexicans*. This stipulation is particularly important to land holders on the Rio Bravo, and especially so to the citizens of Tamaulipas, the estates of some of whom, situated south of the Bravo, are dependent in some respects for their value upon lands on the north of that river, which are used as pastures.

With respect to grants of land made by the Mexican authorities, the *proviso* contained in my instructions was strenuously objected to upon a point of national honor and decorum. No such grants had been made since the 13th of May, 1846. This they knew, and consequently the proviso could have no practical effect. But it implied that they had been made, or might have been made, and that nevertheless the government committed the injustice of revoking them; which, in fact, it had authority to do. Moreover, it involved an acknowledgment that, *that* from the day when hostilities broke out on the north of the Rio Bravo, the Mexican government had lost the right to make grants of land in any part of its territory subsequently occupied by us. Feeling the force of these objections, I requested to make sure of the fact stated by them; and also, in regard to no grants having been made in Texas since the revolution, which had been incidentally mentioned by one of them. And this having been done in a manner which left no shade of doubt on their minds, the declaration which will be found at the end of this article 10, was agreed upon in *lieu* of the *proviso*.

The stipulation respecting grantees had been prevented from fulfilling the conditions of their grants, was taken from the Florida treaty; that precedent being modified to meet the necessity of distinguishing between lands in Texas and those situated elsewhere, and of respecting her authority over the subject. This did not permit the declaration that the grants within her limits shall be null and void, as she might have seen fit, or might see fit hereafter, to adopt a different determination. Nor did it permit the declaration that they shall not be obligatory upon her, (as I had at first written it,) except with the qualification "in virtue of the stipulations contained in this article." On the other hand, the right of the United States to stipulate with Mexico in regard to grants of land in Texas seemed to me, beyond the possibility of question, to be involved in the transfer from Texas to the United States of the authority to make a treaty of peace between her and Mexico.

Letter from the Mexican commissioners to Mr. Trist, September 6, 1847, in same document, pp. 335-338.

The Mexican Commissioners to Mr. Trist.

(Translation.)

House of Alfara, on the Chapultepec Causeway.

SEPTEMBER 6, 1847.

The undersigned, commissioned by the government of the Mexican republic to concert with your excellency an arrangement for peace, on placing in your hands the counter-project which they have framed conformably to the last instructions of their government, think proper to accompany it with the observations contained in this note, which will tend to place in a clearer light the pacific disposition of Mexico in the contest which unfortunately separates both countries. The 4th article of the projet which your excellency was pleased to deliver us on the 27th of August last, and which has been the subject of our latter conferences, relates to the cession, on the part of Mexico, 1st, of the State of Texas; 2d, of the territory on this side of the limits of that State, extending to the left bank of the Bravo, and to the southern frontier of New Mexico; 3d, of all New Mexico; 4th, of the two Californias.

The existing war has been undertaken solely on account of the territory of the State of Texas, respecting which the North American republic presents, as its title, the act of the said State by which it was annexed to the North American confederation, after having proclaimed its independence of Mexico. The Mexican republic offering (as we have informed your excellency) to consent, for a proper indemnification, to the pretensions of the government of Washington to the territory of Texas, the cause of the war has disappeared, and the war itself ought to cease, since there is no warrant for its continuance. To the other territories mentioned in the 4th article of your excellency's draught, no right has heretofore been asserted by the republic of North

America, nor do we believe it possible for it to assert any. Consequently, it could not require them to accept by the right of conquest, or by the title which will result from the cession or sale which Mexico might now make. But, as we are persuaded that the republic of Washington will not only absolutely repel, but will hold in abhorrence the first of these titles, and as, on the other hand, it would be a new thing, and contrary to every idea of justice, to make war upon a people for no other reason than because it refused to sell territory which its neighbor sought to buy, we expect from the justice of the government and people of North America that the ample modification which we have to propose to the cession of territory (beyond that of the State of Texas) contemplated by the said article 4, will not be a motive to persist in a war which the worthy general of the North American troops has justly styled *unnatural*.

In our conferences, we have informed your excellency that Mexico cannot cede the belt which lies between the left bank of the Bravo and the right of the Nueces. The reason entertained for this is not alone the full certainty that such territory never belonged to the State of Texas, nor is it founded on the great value, in the abstract, which is placed upon it. It is because that belt, together with the Bravo, forms the natural barrier for Mexico, both in a military and a commercial sense; and the barrier of no State ought to be sought, and no State can abandon its barrier. But, in order to remove all cause for trouble hereafter, the government of Mexico engages not to found new settlements or establish colonies in the space between the two rivers, so that, remaining in its present uninhabited condition, it may serve as a safeguard equally to both republics. Pursuant to our instructions, the preservation of this territory is a condition *sine qua non*. Sentiments of honor and delicacy, (which your excellency's noble character will know how worthily to estimate,) even more than a calculation of interest, prevent our government from consenting to the dismemberment of New Mexico. Upon this point we deem it superfluous to add anything to that which we had the honor to explain to you orally in our conferences. The cession of Lower California, which would be of little advantage to the republic of North America, offers great embarrassments to Mexico, considering the position of that peninsula opposite to our coast of Sonora, from which it is separated by the narrow Gulf of Cortes. Your excellency has appreciated our remarks on this point, and we have been gratified to see that you have yielded to them. The preservation of Lower California would be enough to make it indispensable to keep a part of Upper California; for otherwise, that peninsula would be without any communication by land with the rest of the republic, which is always a great embarrassment, especially for a power like Mexico, which is not maritime. The grant which is offered by our government (for the proper equivalent) of that part of Upper California which extends from the 37th degree upwards, not only allows to the United States the acquisition of an excellent coast, fertile lands, and also of untouched mines, but also presents to it the advantage of extending to that limit its Oregon possessions. The wisdom of the government of Washington, and the praiseworthy industry of

the American people, will know how to draw rich fruits from the important acquisition which we now offer.

In the 8th article of your excellency's draught, the grant of a free passage across the Isthmus of Tehuantepec to the South Sea, is sought in favor of the North American citizens. We have orally explained to your excellency that, some years since, the government of the republic granted to a private contractor a privilege, with reference to this object, which was soon transferred, with the sanction of the same government, to English subjects, of whose rights Mexico cannot dispose. Therefore your excellency will not wonder that upon this point we do not accede to the desires of your government.

We have entered into this plain statement of the motives which the republic has for not agreeing to alienate all the territory asked of it beyond the State of Texas, because we desire that the North American government and people may be persuaded that our partial refusal does not proceed from feelings of aversion created by the antecedents of this war, or by the sufferings which it has inflicted upon Mexico, but rests upon considerations dictated by reason and justice, which would operate at any time with reference to the most friendly nation, although our relations of friendship with her might be of the closest character. The other changes, which your Excellency will find in our counter draught, are of minor moment, and we believe that there will be no serious objection to them. The subject contained in the 12th article has before now been mentioned in your Excellency's country. We flatter ourselves, from the integrity of your government, that it will not refuse to contract an engagement so conformable to honor and that good harmony in which two neighboring people ought to live.

The peace between both countries will be established with greater solidity if a friendly power, (England,) which has so nobly offered its good offices to Mexico and the United States in the present contest, will now offer to grant its guarantee for the faithful fulfilment of the treaty which may be concluded. The Mexican government understands that it would be very proper to solicit this guarantee.

Our government directs us to recommend to your Excellency that you will be pleased to communicate your decision upon the counter draught, which we have the honor to present to you, within three days.

The good and salutary work can, in our opinion, reach a happy end, if each of the contending parties resolves to abandon some of its original pretensions. This has always been the case; and no nation ever hesitated, at such a juncture, to make great sacrifices to extinguish the destructive flame of war. Mexico and the United States have special reasons thus to act. We must confess, not without a blush, we are exhibiting to mankind the scandal of two Christian nations, of two republics, in the presence of all the monarchies, mutually doing to one another all the harm we can by disputes about boundaries, when we have an excess of land to people and to cultivate, in the beautiful hemisphere where Providence calls us to be born. We venture to commend these considerations to your excellency, before you come to a definite decision upon our propositions.

We consequently do ourselves the honor to offer you our devotion and respect.

JOSE J. DE HERRERA.
BERNADO COUTO.
IGNACIO MORA Y VILLAMIL.
MIGUEL ATRISTAIN.

To his Excellency DON NICHOLAS TRIST, *deputed with full powers by the Government of the United States to the Government of the Mexican Republic.*

Message of the President in Executive Document No. 50, Second Session, 30th Congress, pp. 1-9.

WEDNESDAY, *February* 23, 1848.

The following message was received from the President of the United States, by Mr. Walker, his Secretary :

To the Senate of the United States: I lay before the Senate, for their consideration and advice as to its ratification, a treaty of peace, friendship, limits, and settlement, signed at the city of Guadalupe Hidalgo, on the second day of February, 1848, by N. P. Trist, on the part of the United States, and by plenipotentiaries appointed for that purpose on the part of the Mexican government.

I deem it to be my duty to state that the recall of Mr. Trist as Commissioner of the United States, of which Congress was informed in my annual message, was dictated by a belief that his continued presence with the army could be productive of no good, but might do much harm by encouraging the delusive hopes and false impressions of the Mexicans, and that his recall would satisfy Mexico that the United States had no terms of peace more favorable to offer.

Directions were given that any propositions for peace, which Mexico might make, should be received and transmitted by the commanding general of our forces to the United States.

It was not expected that Mr. Trist would remain in Mexico, or continue in the exercise of the functions of the office of Commissioner after he received his letter of recall. He has, however, done so; and the plenipotentiaries of the government of Mexico, with a full knowledge of the fact, have concluded with him a treaty. I have examined it with a full sense of the extraneous circumstances attending its conclusion and signature, which might be objected to; but, conforming as it does substantially on the main questions of boundary and indemnity, to the terms which our Commissioner, when he left the United States in April last, was authorized to offer, and animated, as I am, by the spirit which has governed all my official conduct towards Mexico, I have felt it to be my duty to submit it to the Senate for their consideration with a view to its ratification.

[To the tenth of the treaty there are serious objections, and no instruction^s Mr. Trist contemplated or authorized its insertion. within the limits of Texas belong to that State, and has no power to dispose of them, or to change tl ants already made. All valid titles to

land within the other territories ceded to the United States will remain unaffected by the change of sovereignty ; and I therefore submit that this article should not be ratified as a part of the treaty.]

There may be reason to apprehend that the ratification of "the additional and secret article" might unreasonably delay and embarrass the final action on the treaty by Mexico. I therefore submit whether that article should not be rejected by the Senate.

If the treaty shall be ratified as proposed to be amended, the cession of territory made by it to the United States as indemnity, the provision for the satisfaction of the claims of our injured citizens, and the permanent establishment of the boundary of one of the States of the Union, are objects gained of great national importance ; while the magnanimous forbearance exhibited towards Mexico, it is hoped, may insure a lasting peace and good neighborhood between the two countries.

I communicate herewith a copy of the instructions given to *Mr. Slidell*, in November, 1845, as envoy extraordinary and minister plenipotentiary to Mexico ; a copy of the instructions given to *Mr. Trist* in April last, and such of the correspondence of the latter with the Department of State, not heretofore communicated to Congress, as will enable the Senate to understand the action which has been had with a view to the adjustment of our difficulties with Mexico.

JAMES K. POLK.

WASHINGTON, *February* 22, 1848.

The message was read.

The treaty of peace, friendship, limits, and settlement between the United States of America and Mexican republic, concluded at Guadalupe Hidalgo, on the 2d of February, in the year 1848, was read the first time.

On motion by Mr. Sevier,

Ordered, That the treaty, message, and accompanying documents be referred to the Committee on Foreign Relations, and printed in confidence for the use of the Senate.

MONDAY, *February*, 28, 1848.

Mr. Sevier, from the Committee on Foreign Relations, to whom was referred, the 23d instant, the treaty of peace, friendship, limits, and settlement between the United States of America and the Mexican republic, concluded at Guadalupe Hidalgo on the 2d day of February, in the year 1848, reported it without amendment.

Mr. Webster submitted the following resolution for consideration :

Resolved, That the further consideration of the message of the President of the United States, of the 22d of February, 1848, be postponed ; and that it be recommended to the President of the United States immediately to nominate commissioners plenipotentiaries, not fewer than three, to proceed to Mexico for the purpose of negotiating a treaty of peace, boundaries, and indemnities due to American citizens.

Mr. Houston submitted the following resolution for consideration :

Whereas, The President of the United States did, on the 22d instant, submit to the Senate an instrument purporting to be a treaty between the government of the United States and the Mexican republic, signed at Guadalupe Hidalgo, on the second day of this month, by Nicholas P. Trist, falsely assuming to act under the authority of the President of the United States, and Luis G. Cuevas, Bernado Couto, and Mig. Atristain, pretending to act by the authority of Mexico :

And whereas, The said Nicholas P. Trist was, at the time of signing said instrument, acting contumaciously and in direct violation of the orders of his government recalling him, which orders he had communicated to the Mexican authorities :

And whereas, The said instrument having been signed by a person falsely representing himself as a minister of this government while acting in violation of his instructions, the laws of the land, and the Constitution of this Union, and to the great scandal of our national character, renders the said instrument utterly void and ineffectual ; it would therefore be dangerous, if not ruinous, for the Senate, by their decision, to sanction such a flagrant disregard of the institutions of the country, as it would be holding out inducements to similar acts by vicious men, who may be actuated by the most corrupt and treasonable intentions against the liberties of the country :

And whereas, The very peculiar circumstances under which the said instrument was concluded, do not leave it free from well-grounded suspicion of the interference of agents of other powers, not parties to the instrument, and whose interests are adverse to those of the United States ; and further, it is manifest, from the correspondence before the Senate, that information affecting the character of the country, as well as the instrument itself, is not before this body ; and as the individual who sent the same has promised much matter with the duplicate, which is to arrive soon :

And whereas, It has been declared to be the object of the present war to obtain " indemnity for the past and security for the future," and as it is most probable that the domain proposed to be ceded by Mr. Trist's agreement is all granted by Mexico, or will be covered by fraudulent grants if the agreement should become a treaty, leaving to the United States mere civil and political jurisdiction of the same, while it would be encumbered by conditions relative to the Indians, which would be worth more in a pecuniary point of view than all the vacant land acquired, and which would leave the government of the United States no indemnity in honor for the lives of its gallant sons who have fallen, no indemnity for the millions expended, nor for the blur which must dim the lustre of our national escutcheon :

And whereas, The conduct of the authorities of Mexico has been such as to justify this government to treat her as a conquered people, and to claim a full indemnity for all the injuries which we, as a nation, have sustained from her since she has claimed to be a republic ; it would, therefore, be but just to the nation, and beneficent to those of her people who would fall thereby into the United States, that the line of the portion of territory to be claimed should begin one league

south of Tampico, on the sea shore, and from thence running in a straight line west-northwest from the beginning, and passing one league south of San Louis Potosi to the summit of the main ridge of the Sierra Madre, and thence northwest along the said ridge of the Madre until it strikes the twenty-fifth degree of north latitude, and then with said degree or parallel west until it reaches the eastern line of Lower California; thence pursuing said line south and west, until it reaches the Pacific Ocean, including such islands as may lie within six leagues of the shore, acquired by the United States as a just "indemnity for the past:"

And whereas, It is not probable, or even to be supposed, that Mexico will be able to establish or maintain order for the future, it is then proper, and will be wisdom, to retain possession of Vera Cruz, and the Castle of San Juan de Ulloa, to be garrisoned by a force sufficient for its defence and other points, if needful, "as security for the future," until Mexico shall manifest her capacity or incapacity for self-government, so that foreign powers may not have a pretext for interference in the policy of nations upon this continent; and if they should attempt to interfere, that the United States will be in a condition to vindicate her rights and national honor.

And whereas, If Mexico is acting in good faith, and is disposed to carry out the agreement now before the Senate for its action, the Executive has power to send an authorized agent or agents, to give such instructions as he may advise, and thereby rebuke the audacious interference of unauthorized agents in the diplomacy of our country, and to prevent a like transaction, or to send a gentleman whose intelligence and integrity will restrain him from attempting any violation of the rights or territory of any sovereign State of this Union:

Therefore,

Resolved, That the before described agreement be rejected by the Senate.

Mr. Baldwin submitted a resolution, which having been considered, by unanimous consent was, on motion by Mr. Dickenson, amended and agreed to as follows:

Resolved, That the President be requested to communicate to the Senate, in confidence, the entire correspondence between Mr. Trist and the Mexican Commissioners, from the time of his arrival in Mexico, until the time of the negotiation of the treaty submitted to the Senate; and, also, the entire correspondence between Mr. Trist and the Secretary of State, in relation to his negotiations with the Mexican Commissioners; also, all correspondence between General Scott and the Government, and between General Scott and Mr. Trist, since the arrival of Mr. Trist in Mexico, which may be in possession of the government.

Ordered, That the Secretary lay the said resolution before the President of the United States.

Tuesday, February 29, 1848.

The following message was received from the President of the United States, by Mr. Walker, his Secretary:

(CONFIDENTIAL.)

To the Senate of the United States :

In compliance with the resolution of the Senate, passed in "executive session" on yesterday, requesting the President "to communicate to the Senate, *in confidence*, the entire correspondence between Mr. Trist and the Mexican Commissioners, also, all correspondence between General Scott and the Government, and between General Scott and Mr. Trist, since the arrival of Mr. Trist in Mexico, which may be in possession of the Government—I transmit, herewith, the correspondence called for: these documents are very voluminous, and presuming that the Senate desired them in reference to early action on the treaty with Mexico, submitted to the consideration of that body by my message of the 22 instant, the originals of several letters of Mr. Trist are herewith communicated, in order to save the time which would necessarily be required to make copies of them. These original letters, it is requested, may be returned when the Senate shall have no further use for them.

The letters of Mr. Trist to the Secretary of State, and especially such of them as bear date subsequent to the receipt by him of his letter of recall as commissioner, it will be perceived, contain much matter that is impertinent, irrelevant, and highly exceptionable. Four of these letters, bearing the date, respectively, the 29th December, 1848, January 12, January 22, and January 25, 1848, have been received since the treaty was submitted to the Senate. In the latter it is stated that the Mexican Commissioners who signed the treaty, derived "their full powers bearing date on 30th December, 1847, from the President *ad interim* of the Republic (General Anaya) constitutionally elected to that office in November, by the sovereign constituent Congress" of Mexico. It is impossible that I can approve the conduct of *Mr. Trist* in disobeying the positive orders of his government, contained in the letter recalling him, or do otherwise than condemn much of the matter with which he has chosen to encumber his voluminous correspondence. Though all of his acts since his recall might have been disavowed by his government, yet *Mexico* can take no such exception. The treaty which the Mexican Commissioners have negotiated with him, with a full knowledge on their part that he had been recalled from his mission, is binding on Mexico.

Looking at the actual condition of Mexico, and believing that, if the present treaty be rejected, the war will probably be continued, at great expense of life and treasure, for an indefinite period; and considering that the terms, with the exceptions mentioned in my message of the 22d instant, conformed substantially, so far as relates to the main question of boundary, to those authorized by me in April last, I considered it to be my solemn duty to the country, uninfluenced by the exceptionable conduct of Mr. Trist, to submit the treaty to the Senate, with a recommendation that it be ratified with the modification suggested.

Nothing contained in the letters received from Mr. Trist since it was submitted to the Senate, has changed my opinion on the subject.

UNITED STATES OF AMERICA,
District of Texas, State of Texas, County of Nueces.

L. S.

Be it remembered that on this the twenty-third day of October, in the year of our Lord one thousand eight hundred and forty-nine, I, Daniel Ayres, a commissioner duly appointed by the district court of the United States for the district of Texas, having and exercising the powers and jurisdiction of a circuit court of the said United States, under and by virtue of the acts of Congress entitled An act for the more convenient taking of affidavits *an bail* in civil causes depending in the courts of the United States, passed February 20th, 1812, and the act of Congress entitled An act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States, passed March 1st, 1817, and the act entitled An act to establish the judicial courts of the United States, passed September 24th, 1789, did call and cause to be and personally appear before me, at the hotel in Corpus Christi, county of Nueces, State and district aforesaid, to certify and the truth to say, on the part of these complainants, in a certain suit now depending and undetermined in the district court of the United States for the district of Texas, and to be tried at Galveston, in the said State and district, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman *et als.* are defendants, William O'Docharty, etc. And the said William O'Docharty, being of sound and lawful age, was by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, in the suit aforesaid, and thereupon I did carefully examine the said witness, and he deposed, testified, and said as follows, viz:

I am acquainted with the complainants.

I am not acquainted with the defendant, Charles Stillman.

I recognize the paper now exhibited to me, marked *A*, purporting to be a plot and calculation of a survey on the Rio Grande. The same is in my handwriting, excepting the four last lines of the letter *A*, and before the signature.

The plot and calculations are mine and were made by me.

The survey was made by me, I think, in 1836, but am not positive whether it was made in 1836 or in 1837.

The said tract of land is generally called, or was, at the time I surveyed it, called the Potrero del Esperitu Santo, and its deputed owners were Manuel Prieto, Domingo de la Garza, Rafael Garcia Cavazos, Juan Tigerina, and Estafana Gozeascochea de Cortina; and said land lies between the Arroyo Colorado and the Rio Grande, opposite Matamoras.

The part corresponding to Domingo de la Garza (as above expressed) is now, I understand, the property of Mrs. Tarnava, from whom said Domingo first purchased the same.

The plot and calculations are correct, and it shows correctly the measurement, causes, and contents of the said survey made by me.

This is the same survey referred to in my former deposition in this case.

I wish to explain that I have made several plots and calculations to the different owners of the Potrero above expressed.

I believed them all correct at the time I made them.

The calculations in the paper *A*, above referred to, I have not now time to examine, but I believe they will in examination stand the test.

WILLIAM O'DOCHARTY.

And I, David Ayres, the commissioner aforesaid, do hereby certify that the reason for taking the foregoing deposition is, and the fact is, that the testimony of the witness is material and necessary in the civil cause or suit in the caption of the said deposition named, and that he lives in the county of San Patricio, more than one hundred miles from the place where the trial of the said suit is to be had, to wit: the city of Galveston, in the said district and State. I further certify that neither of the defendants, nor any one of their attorneys, were within one hundred miles of the place aforesaid of taking the foregoing deposition at the time when the same was taken, and that, therefore, no notification of the time and place of taking the same was given to them or either of them by me.

And I further certify that on the day before first mentioned I was attended by the said witness, and thereupon the above deposition was taken and reduced to writing by me in the presence of the *presence of* the witness, and from his statements, and after carefully reading the same to the witness, he subscribed his name thereto.

I have retained the said deposition in my possession for the purpose of sealing up and directing, and, after such sealing and directing, handing the same to the clerk of the court for which the same was taken.

And I do further certify that I am not of counsel or attorney for either parties in the caption of the said deposition named, nor in any way interested in the said cause or suit.

Witness my hand and seal the day and year above written.

DAVID AYRES.

Excepting the Mexican names, which were wrote by the witness himself.

D. AYRES, *U. Commissioner.*

NOTE.—The paper *A*, referred to in the aforesaid deposition, is filed with the deposition which them the same complainants, and Simon Mussina is defendant.

D. AYRES, *U. S. Commissioner.*

No. 31.

Testimony taken viva voce of George B. Inez, and reduced to writing

The following testimony was offered to be read as evidence by complainants, at the hearing and the examination of the witnesses respect

ively, was objected to by defendants as not competent at the hearing, and as not competent and sufficient proof of the matters deposed and stated by said witnesses ; which objections were overruled by the court, and the same were read in evidence by the complainants.

JAMES LOVE, *Clerk.*

And, thereafter, George B. Inez was called as a witness on the part of the complainants, and, having been duly sworn, in open court, deposed and said as follows :

I was a deputy clerk of this court at the time of opening the depositions in this cause and that of Rafael Garcia Cavazos and others against Simon Mussina. These in the latter case were opened by consent of parties, on the fifteenth day of November, 1850 ; and at that time I took out of the envelope containing the deposition of William O'Docharty, in that case, the paper marked A, purporting to be survey, plan, and field-notes of a survey now filed in this cause.

Cross-examined by the defendants : The paper was not attached to the deposition, but was disconnected from it.

No. 32.

O' Docharty's plan of survey, &c., marked A.

March, 1851. Was filed in the first of the said causes, and was offered by the complainants in evidence in that cause ; was objected to by complainants because not identified nor endorsed by the commissioner taking the depositions of said O'Docharty in this cause ; and because the order to produce said deposition in the case against Mussina was not obtained before the hearing ; and the reading of said paper was likewise objected to as legal and competent evidence in this cause, or bearing any relevancy to the same.

All which objections were overruled by the court, and the same was read in evidence by the complainants.

JAMES LOVE, *Clerk.*

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS *et als.* }
vs. }
SIMON MUSSINA.

Translation of the field-notes of a survey made by William O'Docharty, and referred to in his depositions :

The following leaves contain the courses, distances, calculations, and quantity (in sides and square cordeles) of the Agostadero del

Esperitu Santo, and of the parts of the said agostadero, belonging to D. Sabas Cabazos and D. Juan Tijerina. The calculations of the other parts I will present when their owners furnish the necessary means to mark out their dividing lines.

NOTE.—The bends of the river are not included in the partition, because the owners agreed that each one should receive what would come to him by extending his lines.

On the map.

- a. The stone mark, (clavado.)
- b. Mesquit marked +.
- c. Another stone mark, (clavado.)
- d. Mesquit marked +, in the labor of D. Rafael Garcia.
- e. A stone mark in front of the R. de S. Juan.
- f. Mesquit marked +, on the edge of the league.
- g. Another mesquit *stake on the league.*
- x. The watering place of el sows.
- y. The entrance, (puerta.)

Courses.	Dist.	N.	S.	E.	W.	M.D.	Area N.	Area S.
S.	73.0	-----	73.0	-----	-----	00.0	-----	-----
S. 72 W.	614.0	-----	189.8	584.0	-----	00.0 584.0	-----	110843.20
N.	871.7	871.7	-----	-----	-----	1168.0 1168.0	1018145.60	-----
W.	27.4	-----	-----	-----	27.4	1168.0 1140.6	-----	-----
N. 30½ W.	166.9	143.9	-----	-----	87.7	1113.2 1028.5	148001.15	-----
S. 35° 21' W.	134.3	-----	110.0	-----	77.0	943.8 866.8	-----	95348.0
S. 26¼ W.	52.6	-----	46.2	-----	23.5	789.8 766.3	-----	35403.0
S. 82 W.	87.8	-----	12.0	-----	86.8	742.8 659.0	-----	7908.0
S. 63 W.	111.8	-----	51.1	-----	99.5	569.2 469.7	-----	24001.6
S. 9½ W.	57.6	-----	56.8	-----	9.0	370.2 361.2	-----	20516.16
S. 71 W.	97.6	-----	31.8	-----	92.2	355.2 260.0	-----	8268.00
S. 10° 40' W.	452.5	-----	444.9	-----	83.9	167.8 83.9 00.6	-----	37327.10

1166146.75

339615.20

2)826531.55

6)413265.77 all the agostadero.

68877.62 the sixth.

Courses.	Dist.	N.	S.	E.	W.	M.D.	Area N.	Area S.
S. 63 W.	36.0		16.3		32.2	32.3		524.86
S. 9½ W.	57.6		56.8		9.0	64.4		4169.12
S. 71 W.	97.6		31.8		92.2	72.4		5552.28
S. 10° 41' W.	452.5		444.9		83.9	82.4		156026.00
S.	73.0		73.0			174.6		31725.80
S. 72 E.	114.6		33.3	108.9		266.8		10845.81
S. 9° 21' E.	664.8	656.1		108.4		350.7	71121.24	
						434.6		
						434.6		
						434.6		
						325.7		
						216.8		
						108.4		
						000.0		

208844.30

71122.24

2)137723.06

The part of D. Sabas Cavazos 68861.53

Courses.	Dist.	N.	S.	E.	W.	M.D.	Area N.	Area S.
S 82 W.	23.1		3.2		22.9	22.9		73.28
S. 63 W.	75.8		34.8		67.3	45.8		3925.88
S. 9° 21' W.	664.8		656.1		108.4	113.1		189480.64
S. 72 E.	114.6		33.3	108.9		180.4		9600.39
N. 7° 2' E.	732.6	727.4		89.7		288.8	65247.78	
						397.2		
						288.3		
						179.4		
						89.7		
						00.0		

203080.23

65247.78

2)137832.45

The part of D. Juan Tijerina 68916.22

From the entrance (Puerta) east, there are 584 cordeles. From Sn. Yzo. north to the Laguna Madre there are 993 yd'ñ, on the side of the east to the west there are 584 yd'ñ. On that of the north to the south there are 725 yd'ñ.

JUAN JOSÉ TIJERINA.

I certify that the foregoing is a correct translation of the original made under order of the court.

WILLIAM G. HALE.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

Be it remembered, that upon the hearing of the above entitled cause, in accordance with the order of the court, heretofore obtained, to prove *viva voce* the original testimonio of title to D. José Salvador de la Garza, the counsel for the complainants produced a document purporting to be the said original testimonio, and called as a witness thereto William G. Hale, who, being duly sworn, deposed and said as follows:

I am acquainted with the handwriting of Francisco Javier Gamboa and Joseph de Montalvan, who appear to have signed the original testimonio of title now produced on the part of the complainants, but I have obtained my knowledge of their handwriting only in the following way. I have seen and examined, very carefully examined, another and similar testimony of title issued for the lands of Concepcion de Carristos about the same time, and bearing the same signatures. This latter title is generally acknowledged in the community where the land lies, that is, on the Rio Grande, to be genuine, and I saw it for the first time in the possession of Robert H. Hord, the attorney of the owner of the land. I have never heard any objection made to the genuineness and authenticity of this latter title, and I have often heard it spoken of as undoubtedly good. Upon inspecting this title I was satisfied that the signatures of Gamboa and Montalvan thereon were the same as those on the title to D. Salvador de la Garza, then in my possession, and I took an exact copy of the signatures on tracing paper with a pencil, and have since repeatedly compared them. From these circumstances I can state with as great certainty as I could in every case of the proof of handwriting, that the signatures of Francisco Javier de Gamboa and Joseph de Montalvan, the first purporting to be the special judge of lands and waters, and the second the royal and provincial notary, which signatures appear at the end of the testimonio of title produced by the complainants, are their genuine signatures, and correspond very closely with their signatures on the other title referred to me. I annex the tracing paper copy of the signatures on this last mentioned title, which I have referred to in this deposition.

Robert H. Hord, esq., called by the complainants at the hearing to prove original testimonio of grant to bearing date

Mr. Hord's testimony being objected to by the solicitors of Jacob Mussina, one of the defendants, and Mr. Hord himself claiming exemption from being called as a witness by complainants, on the ground that he was interested in the event of the suit, he was sworn upon his *voir dire*, and in answer to questions testified as follows :

Since the institution of this suit I have bought the entire interest of Stillman and Belden, two of the defendants. I am also interested in the establishment of the old title, which I am now called to prove up, but I am more largely interested in the success of the defence of this suit. Jacob Mussina has no interest in the property in controversy ; he forfeited any joint interest which he may have ever claimed with Stillman and Belden by failing to perform any contract which he may pretend to have had with them.

The solicitors for Jacob Mussina, one of the defendants, thereupon put the following question to Mr. Hord :

Have you or have you not any understanding or agreement with the complainants, or either of them, or their agent or solicitors, in relation to the determination or relation of this cause, or of any of the matters involved therein, adverse to any interest or right claimed by Jacob Mussina in any property or rights involved in this suit? Are you or not interested in any such understanding or agreement?

Which question Mr. Hord declined to answer ; and thereupon the court decided that the question need not be answered.

And thereupon the said Robert H. Hord, being sworn in chief by the court, deposed and said as follows :

I can say nothing about the genuineness of the signatures at the end of the testimonio of title produced by the complainants. I had supposed that they were genuine from the fact that about two years and a half ago I received from my clients a title for the lands of Concepcion de Carristos, which I supposed to be genuine ; it had marks of age, and I had been told by others it was genuine. It had been generally acknowledged and acted on as such. The signatures to the title produced by the complainants appear to be the same as those on the Carristos title. I examined both very particularly some time ago, as I was attorney for some of the parties claiming under the first, and for those claiming under the second. It is my impression that they are both genuine.

A subpoena was served upon me to produce in this cause the testimonios of title for the lands of Concepcion de Carristos and the lands about the Great Salt Lake. At the time when the subpoena was served on me I was from home, and these titles were in the possession of my partner, Mr. Russe. They have since, and before my return home, been delivered by him to the commissioners for the examination of titles on the Rio Grande, and were lost in the Gulf by Dr. Miller, one of the commissioners.

The Carristos title was generally regarded by the Mexicans as genuine and valid. The Americans generally deny the validity of

this title as of all others, on the ground that the separation of the country from Mexico annulled them and left the land vacant.

I recollect seeing Mr. William G. Hale make a copy on tracing paper of the signatures at the end of Carristos' title in my office. I cannot say that the tracing paper presented to me and annexed to Mr. Hale's testimony is the same, but it resembles it.

Cross-examined by the defendants. I compared the signatures and examined them carefully. They appear to be of the same person. I do not consider myself an expert in the examination of handwriting. Mexicans are very expert in the imitation of handwriting. I have often seen it done by them in such a way that I could not detect it. I have not made it an object or business to compare handwriting.

I do not know that the genuineness of the Carristos title is any more acknowledged any more than that of the grant sued on. I have never heard the genuineness of either doubted among the Mexicans.

And thereafter John S. Jones was called as a witness under the said order of the court, and, having been duly sworn, deposed and said as follows :

I am a deputy clerk of this court. I have been familiar with handwriting nearly all my life. I am accustomed to compare handwriting, and could in general tell the handwriting of persons by comparison. On comparing the copies of signatures on tracing paper exhibited to me with the signatures at the end of the testimonio of title produced by the complainants, I would state that they are not fac similes, but have a marked general resemblance ; and I should believe the signatures in the testimonios, and those from which the tracing paper copies have been taken, to have been made by the same persons, or by some one very expert in forging or counterfeiting them. In the absence of fraud I should believe them to have been made by the same persons. The tracing paper copy is evidently taken from signatures on some other document.

Cross-examined by the defendants. I think that it is practicable to counterfeit the signature, and that, with a little practice, I could make as good imitations of signatures as those shown to me.

And thereafter Charles Rosignol was called as a witness under the order aforesaid, and, having been duly sworn, deposed and said as follows :

I have been accustomed to write and copy handwriting for a long time. I think I could tell handwriting by comparison. I am deputy clerk of the supreme court of this State. Upon comparing the copies of the signatures on the tracing paper exhibited to me, with the signatures at the end of the testimonio of title produced by the complainants, I would state that they are not fac-similes, but have a marked general resemblance ; and I should believe the signatures in the testimonio, and those from which the tracing paper copy has been taken, to have been made by the same persons, or by some person very expert in forging or counterfeiting them. In the absence of fraud, I should believe them to be made by the same persons.

The tracing paper copy is evidently taken from signatures on some other document.

Cross-examined by the defendants. I think that it is possible to

counterfeit the signatures, and that with a little practice I might make as good imitations of signatures as those produced.

The foregoing testimony was reduced to writing at the hearing by the direction of the court.

JAMES LOVE, *Clerk*.

[See original, page 1080.]

The above is the original tracing paper exhibited to the witnesses, W. G. Hale, R. H. Hord, John S. Jones, and Charles Rosignol, and referred to by them in their testimony given under the order of court to prove the testimony of title granted to D. Salvador de la Garza, at the hearing in the cause of Rafael Garcia Cavazos and others *vs.* Charles Stillman and others.

JAMES LOVE, *Clerk*.

MARCH 28, 1851.

The reading of the testimonio of title was objected to by the defendants because not shown to be in conformity with the laws of Mexico, and such as was and is valid by said laws, or that the same would be admissible as evidence in Mexico.

2d. That the testimonio is defaced, interlined, and in many places illegible.

3d. The testimonio has not been and is not sufficiently proved to be in evidence in this cause; and defendants in support of said objections read from a printed book called *Partidas*, edited by Moreau and Carleton, and from decisions of the Supreme Court of Texas, showing said book to be authority as containing the laws in Mexico.

To the *viva voce* proof of said testimonio at the hearing it was particularly objected—

1st. That the same cannot properly be made and received at the hearing.

2d. That the same is irrelevant and incompetent, and does not tend to prove the genuineness of the execution of the document or testimonio offered.

3d. That proof by comparison of handwritings is not proper, the genuineness of the specimens not having been admitted or proved.

4th. That the foundation of Mr. Hale's belief as to the genuineness of the signatures could not warrant him in swearing that he was acquainted therewith.

To the testimony of Messrs. Jones and Rosignol, it was more particularly objected—

1st. That the specimen is not sufficiently identified.

2d. The specimen on tracing paper is not such as admits of a comparison, and testimony founded thereon.

3d. That such testimony could not be received at the hearing.

To the testimony of Mr. Hale it was further objected that he is interested in the event of this cause, as shown in his deposition.

To the testimony of Mr. Hord it was further objected by the solicitors of Jacob Mussina, that Mr. Hord ought to have been compelled to answer the question put to him by the solicitors of said defendant

in his examination on the *voir dire*, and that said Hord is interested in establishing said title.

All which objections made by the defendants respectively were overruled by the Court, and the said testimonio read in evidence.

JAMES LOVE, *Clerk*.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

The foregoing document, being the paper writing purporting to be the original testimonio of title issued to Don José Salvador de la Garza for the tract of land stated in the bill of complaint, was produced by William G. Hale, one of the solicitors and counsel for the said complainants, at the hearing of the above entitled cause, was testified to by the said William G. Hale, Robert H. Hord, John S. Jones, and Charles Rosignol, as appears by their testimony, now reduced to writing, and was then offered as evidence in this cause with the translation on file; to its admission as evidence, the counsel for the defendants objected for the reasons hereinafter stated, but their objections were overruled by the court, and the said document was accordingly admitted and read in evidence at the hearing on the part of the said complainants. March 28, 1851.

JAMES LOVE, *Clerk*.

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
SIMON MUSSINA. }
RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

Mexico, and September the 26th, one thousand seven hundred and eighty-one. Title of sale, adjudication, and grant of fifty-nine sitios of "Ganado Mayor" and eleven *caballerias* of land, made by the special judge of lands of this kingdom, and confirmed by the royal audience, in favor of Don José Salvador de la Garza, resident citizen of the town of Camargo, within the limits of the colony of Santander.

Don Francisco Xabier de Gamboa, of the council of his Majesty, his oidor in the royal audience of this New Spain, and special judge of the sales and purchases of lands and waters in the district of the said royal audience, etc. Whereas proceedings were had before me, and in this my special tribunal, upon the application of Don José Narciso Cabazos, resident and original settler (*poblador*) of our Lady of Guadalupe de Reynosa, on the Gulf of Mexico, who asked to be permitted to purchase a *potero* named Santa Rita, and after the usual order

had been given to him, that the proceedings prescribed in it for the object of his claim might be taken, D. José Salvador de la Garza, upon this, opposed the said claim, declaring that the said lands were contained within the potrero named Esperitu Santo, which he had denounced, in the year seventy-two, before the lieutenant-general of that colony, who ordered him to apply to this tribunal, and he having done so by means of powers of attorney which he gave, and full means for the prosecution of the business, he failed in obtaining the grant through the negligence of his attorneys, in consideration whereof, and of the proceedings had on the application of the said Cabazos, and what has been alleged on either side by an order of the 26th of November of the past year, seventeen hundred and seventy-seven, I declare that the purchase of the place of Santa Rita, claimed by Cabazos, could not be admitted, and I ordered that a commission (dispatcho) be delivered to D. José Salvador de la Garza, in conformity with the denunciation which he had heretofore made before the lieutenant-general of the colony, and repeated in this tribunal, in order that the nearest justice (teniente) might execute the proceedings prescribed in the order: In obedience to which the commandant of the town of Camargo proceeded to receive the following testimony (informacion):

[Testimony.]

In the town of Santa Ana de Camargo, on the aforesaid 15th day of the month of June, one thousand seven hundred and seventy-nine, before me, D. Juan Antonio de Echave, holding the post of chief justice of the said town (teniente de justicia mayor de dicha villa) and commissioned as Judge in these proceedings, and before my assisting witnesses D. José Salvador de la Garza presented as his first witness Don Salvador Vela, a resident citizen of the said town, and I administered to him in his proper person, which I certify I know, the oath, which he took, in full form, by God our Lord, and the sign of the holy cross, under which he declared he would speak the truth as to what he might know and should be asked, and being interrogated as I have directed, he says that the potrero which he knows as that of Esperitu Santo, has as its boundaries and natural outlines (terminos y linderos) the Arroyo Colorado, the lagunes (lagunas) of the sea, the Rio Grande, and on the side of the entrance, a thick wood; that he knows that the first who settled the said potrero was Don José Salvador de la Garza, who has had and still has possession of it with various others, whom some time afterwards he established there under his protection or control (los puso á su arrimo) it being about eight years since he settled it; that he knows that these lands are vacant and a part of the public domain (valdias y realengas,) because he has known no owner of them; that this is the truth upon the oath which he has taken, and this he confirmed and ratified; he said that he was seventy-five years of age, and that the general prohibitions of the law did not apply to him, and as he did not know how to write, I, the aforesaid judge, did so for him, before me and my assisting witnesses with whom I act as an examining judge (juez receptor), all of which I

certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Lorenzo Treviño ; assisting witness, Tomas Flores.

[2d Witness.]

And immediately thereafter, before me, the aforesaid judge, and my assisting witnesses in the present investigation, D. José Salvador de la Garza offered as his second witness D. Juan Damacio Peres, a Spaniard, and resident citizen of the said town, and I administered to him in his proper person, which I certify I know, the oath which he took, by God our Lord and the sign of the holy cross, upon the faith whereof he declared he would state the truth in all that he might know and should be asked, and being interrogated, as has been usual, he said, the party being present to see him take the oath as in the preceding examination, that the potrero which they called that of the Esperitu Santo, had upon one side, and to form its figure (por un lado tiene forma) the Rio Grande, Lagunas of the Sea, Arroyo Colorado, and a thick wood (brenal espeso) or thicket, on the side of the entrance of the said potrero, in the centre of which it has some ponds when it rains, which slowly dry up, but the first who entered it by breaking through the thicket was D. José Salvador de la Garza, who possessed it, and still possesses it, with another, whom he put there, under his protection (a su arrimo metio) long after ; that it must be something like eight or nine years since the said de Salvador has settled it ; that he knows the said lands to be vacant, uncultivated lands, belonging to the public domain of the king, and that he has positively not known or heard mention of any other person as having settled (poblado) the said lands ; that this is the truth upon the oath that he has taken, confirming and ratifying it ; he said that he was fifty years of age, and that the general prohibitions of the law do not apply to him ; and as he also does not know how to write, I, the said judge, have done so, before me and my assisting witnesses, acting as an examining board (por receptoria) as before stated, which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness José Lorenzo Treviño ; assisting witness, Tomas Flores.

[3d Witness.]

In the town of our lady Santa Ana de Carmago, on the sixteenth day of the said month and year, before me, the above mentioned judge, and assisting witnesses D. José Salvador de la Garza presented, as his third witness, D. Juan Bautista Garcia, a resident citizen of said town, and I administered to him in his proper person, which I certify I know, the party being present, the oath, which he took according to law, by God our Lord and the sign of the holy cross, upon which he declared he would state the truth as to what he might know and should be asked ; and being interrogated as is required, he said : that he has known the Potrero which they now call that of the Esperitu Santo, about twenty-six years, in expeditions undertaken against the savages, as one of the first settlers of this town, and that he has always known it as an uncultivated, vacant land, belonging to the public domain of

the crown, and that the Arroyo, now known as the Colorado, forms it upon one side, the Lagunes immediately communicating upon the sea upon another, and on the third and southern side the Rio Grande, closing on the west with a thicket; that he knows, as public and notorious, that D. José Salvador de la Garza opened and broke through this thicket, making an entrance in it, when he stocked (settled) it, which must be eight or nine years ago, without any other person having done so before, and that he knows and is sure that he has maintained under his care and protection other persons whom he placed in it after he had entered and stocked (settled) the said land, in which he has seen some fences and bars (tromcas) which serve to close the entrance, all made by the said D. José Salvador de la Garza, who has engaged and kept in it his stock up to the present time, and that there are no permanent watering places besides the Rio Grande; that this is the truth upon the oath that he has taken, and he confirmed and ratified it, and said that he was seventy years of age, and that the general prohibition of the law did not apply to him, and that he does not know how to sign. I sign with my assisting witnesses *witnesses* with whom I act, as has been said, which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Lorenzo Treviño; assisting witness, Tomas Flores.

[4th Witness.]

In the aforementioned town, and on the aforementioned day, month, and year, before me, and in this tribunal, and before the assisting witnesses, the party presented as his fourth witness for the present examination Don Lorenzo Lerna, a resident citizen of this town, and I administered to him in his proper person, the oath which he took, in all form of law by God our Lord, and the sign of the Holy Cross, upon which he declared he would state the truth as to what he might know and should be asked, and after the party who was present to see him take the oath had retired, he said that he is one of the first settlers of this town, and has known it for a period of thirty years, but on account of his having been a soldier, and for this reason having been assigned to various detachments from this province, he was never in those times with his companions at the Potrero, which is now called that of the Esperitu Santo, but had on several occasions gone there himself, and knew it in consequence of having gone round the outside, where only Pagan Indians were living, until D. José Salvador de la Garza, in the year seventy-one, invited him to accompany him and examine the said Potrero, to see whether it offered any advantage for the protection of the stock (bienes) of the said D. Salvador, and accompanying him, they went together to examine it, and arriving at a thicket which was there, through which alone they perceived they could make their entrance easy, they did so with hatchets and knives, notwithstanding the danger with which they were threatened from the Indians, and having entered, they saw the latter retiring, upon which they determined to go through the whole of the Potrero, in which they spent six days; that immediately after the said D. José Salvador put in it his stock (bienes de campo,) improving it (poblandole)

with buildings (hacales;) that he made fences and cattle pens, (corrales,) and that the place of his entrance may be recognized by the bars (trancos) in it; by which he knows, by actual observation, that the said Potrero was not settled before by any other person, and that the said thicket, Arroyo Colorado, Lagunas of the sea, and Rio Grande form it; that it is an uncultivated tract of land, full in all parts of small streams and ponds, which the freshets and rise of the Rio Grande, Arroyo Colorado and Lagunas of the sea, which inundate the said Potrero, have made, the men and animals then preserving themselves upon some elevations which it had, all which he has seen in passing over it afterwards on repeated occasions; that he knows that D. José Salvador de la Garza aforesaid has conciliated and obtained the good will of these Indians, by giving them beeves to eat, and clothing to wear, and conducting himself towards them with such courtesy, (urbanidad,) that he has brought some of them, both men and women, into the bosom of our Holy Religion, and caused them to be married by our Holy Mother Church, so that he is well known to keep some of them in his own house; and he also knows that within the four years that the Potrero has been settled, he has placed in it some residents, as well of this town as of that of Reynosa, and various others from beyond the frontier, who are now living in their respective settlements, by which he knows, and it is true that the said Potrero and its lands are vacant and belong to the public domain of the crown; all of which he declares by the question put to him, and he confirms and ratifies it to be true upon the oath which he has taken; he said that he was sixty years of age, or a little more or less, and did not know how to sign, and that the general prohibitions of the law did not apply to him. I, the said justice (teniente) and commissioned judge, (Juez comisionado,) have signed before me and my assisting witnesses with whom I act, as has been said, all of which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Antonio Treviño; assisting witness, Tomas Flores.

In the said town, on the same day, month, and year, before me, the aforesaid Judge, commissioned for these proceedings, and my assisting witnesses, D. José Salvador de la Garza, presented in this Tribunal as the fifth and last witness in this investigation, D. José Xabier Salinas, a resident citizen of this Town, and I administered to him in his proper person, which I certify I know, the party being present, the oath, which he took according to law by God our Lord, and the sign of the Holy Cross, upon which he declared he would state the truth as to all which he might know and should be asked, and being interrogated as is ordered, he said: That he is one of the first who settled and built this town; in doing which he passed, on many occasions, along the outside of the said Potrero, which is now called that of the Esperitu Santo; and that, although he was on some of these occasions accompanied by others, he never determined, on account of the danger from Indians, to enter and examine the said land, but that it was known that a creek (Arroyo) known as the Colorado, lagunas opposite the sea, the Rio Grande, and a dense thicket, made and formed the said Potrero, in which only Pagan Indians dwelt, and that it remained without being settled by any other person until the

year seventy-two, D. José Salvador de la Garza entered to settle it with his stock, and by building dwelling-houses, cattle-pens, and fences, that he where he has remained, without having ever been dispossessed of it, and still remains up to the present time; that he knows that something like four years afterwards he established (agregó,) as well in the said Potrero as in its immediate neighborhood, several other residents of the towns of Reynosa and Camargo; that it is a country, as is publicly known as to most or the whole of the Potrero, which is covered by water with the freshets which often happen in the said Rio Grande, Arroyo Colorado, and Lagunes, as is confirmed by its being notorious that the said D. José Salvador de la Garza was once surrounded by water, (islado,) and was not able to escape for some days, and this danger threatens him in such freshets with destruction to himself and also the loss of his property (bienes;) that he has always known and considers the said Potrero as vacant, and belonging to the Public Domain of the crown; that this is the truth upon the oath that he has taken, which he confirmed and ratified; he said that he was seventy-four years of age, and that the general prohibitions of the law did not apply to him, and this he has signed before me and assisting witnesses, acting as an examining Court (por receptoria) as above mentioned, all of which I certify. JUAN ANTONIO DE ECHAVE. FRANCISCO XAVIER SALINAS. Assisting witness, José Antonio Treviño. Assisting witness, Thomas Flores. And this examination, which was taken officially, being completed, they proceeded to the actual inspection (vista de ojos) in the following form:—

[Actual inspection.]

In the said estate (Estancia) of the Esperitu Santo, on this the twenty-sixth day of the said month and year, I, the said Judge, accompanied by my assisting witnesses, and all those above named, who appeared in consequence of the citation made to them, taking as a guide D. Lorenzo Leona, on account of the complete acquaintance he has and enjoys (que viene y le assiste) with the said Potrero, in respect to the recesses, bends, and elbows (rinconados balsas y recodas) that, as we are informed, the Rio Grande del Norte, the Lagunas of the Sea, the Arroyo Colorado, which form it make the expert as Surveyor going likewise with us, went into the field to begin, as I did begin, the actual inspection (vista de ojos) of the aforesaid land, and the places which surround it, water holes, and the nature of the ground (terreno), and for proof thereof I have made this official statement (lo puse por diligencia), which I have signed before myself and my assisting witnesses, with whom I act as examining Judge (Juez receptor), all of which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Rafael Lopez. Assisting witness, José Benito Lopez.

In the aforesaid estate, on the thirtieth day of the said month and year, I, the aforesaid Judge, having terminated the actual inspection of these lands of Esperitu Santo, which was done in company with the appointed Surveyor, D. Manuel de Sierralta, and other persons

already mentioned. I have noticed the courses of its lines, the centre, and the nature of the ground, which is uncultivated (*criaso*) on account of the many breaks and (*derrames*) which it contains, as well as the expanded and large ponds which surround, and prove that the most or the whole of the said Potrero is inundated by them in the rises of the said Rio Grande and Arroyo Colorado especially, since from these last issue the said ponds and lakes, the latter being fed equally by the high tides of the sea, so that when they united the danger before spoken of is apparent, (I mean) that of being drowned with no chance of escape except upon some small eminences that the said Potrero has, or by the people going in boats to dry land (*tierra firmà*) at a great distance, as the water extends upon these occasions as much upon one side as the other from the river, and from the Arroyo, so that the most of the said ground of this Potrero is only covered with a kind of grass called *sacaquite*, not at all fit to be eaten by any animal, as is known by experience, it being an herb which usually grows upon salt marshes near the coasts of the sea, and the said Potrero contains no permanent watering-place except the Rio Grande, and when it rains, some pools which dry up in a short time, this also happening with the said ponds (*esteros*), and then the waters of the Arroyo Colorado, on account of their brackish and bitter nature, are like those of the sea, on which account it is only useful as regards horses and all other stock by the security and protection which is offered on account of the said potrero not having but one entrance and exit through the dense thicket which runs across it from the Arroyo Colorado to the Rio Grande, all of which I set down in this official statement, (*pengo por diligencia*), signing it before me and the rest of those cited and present who have learned the same facts, and the surveyor, acting as an examining court, as has been said, all of which I certify. JUAN ANTONIO ECHAVE. MANUEL DE SIERRALTA. JUAN JOSE DE LA GARZA FALCON. BARTOLOME TREVINO. PEDRO VILLAREAL. JOSE ANTONIO DE LA GARZA FALCON. JOSE SALVADOR DE LA GARZA. Assisting witness, José Benito Lopez. Assisting witness, José Rafael Lopez.

[Continues.]

In the said estate, named the *Esperitu Santo*, on the first day of the month of July of the aforesaid year, I, the aforementioned judge, in consideration of the completion of the actual inspection (*vista de ojos*) of the said potrero, and inasmuch as no opposing circumstance has been raised by it to impede or prevent the survey and examination (*reconocimiento*) of its lands as is ordered to me, in consequence thereof it is my duty to order, and I do order, to pass to its execution, and it must begin from a watering place (*Abrevadero*) that there is on the Rio Grande, where it forms a corner with the fence which runs to this place from the north to the south, which is the line of the thicket which comes from the Arroyo Colorado in the same direction, and for its proper effect I set it down in this official statement before me and the witnesses with whom I act as an examining court, as has been said, which I certify. JUAN ANTONIO DE ECHAVE. Assisting witness, José Rafael Lopez. Assisting witness, José Benito Lopez.

In the watering place above mentioned of the Rio Grande del Norte, being in it on the second day of the said month and year, I, the aforesaid judge, accompanied by assisting witnesses, adjoining proprietors, and neighbors, (colindantes y circumbecinos,) as well within as without the said petrero, which are the same, since there are no others than those already named for the actual inspection, I ordered D. Manuel Sierralta, the surveyor, already nominated and sworn in due form for this survey, to begin to exercise his office, and he, before me, the witnesses, and the other persons present as aforesaid, took a staff of the usual length, and attaching it to one of the ends of the measuring cord, (cordel,) prepared for this purpose, measured away from the said staff, *measured away from the said staff*, and gave the cord fifty varas in length, the vara being that used for measuring cloth in Castile, and the one customary in this Province of New Santander; and having measured off the said fifty varas, he attached the said cord at the place where they ended to another staff of the same size, so that between both there were only measured the said fifty varas, and setting a compass he ran this the first time from the aforesaid watering place, course east, going in a straight line along the meanders of the said Rio Grande, down the stream, arriving with five hundred and eighty-four "cordelados" [measures of fifty varas each] at the aforesaid river, at a (derrame) from it, by which in its freshets it fills with water a tank (tanque) which was left above (que quedo por la parta de arriba) at a distance of six cordeles, which was left as a natural landmark, (por lindero,) in which place I ordered the denunciante, D. José Salvador de la Garza, to establish a more exact fixed mark (mas st'nal fija) as a corner, (mojonera,) there remaining on this line to the south some recesses and elbows, (bolsas y recodas,) which the bends of the above mentioned Rio Grande formed; that the surveyor said he would notice after completing the other lines in order to include in the entire amount of the square leagues (sitios) those which might be in the said bends and elbows, and this line being concluded up to the said place of the

I have set it down in this official statement, which, as well the said surveyor and interested party as the rest of the adjoining proprietors and neighbors who were knowing to this fact, have signed before me and the assisting witnesses, acting as an examining tribunal, as has been said, all of which I certify. JUAN ANTONIO DE ECHAVE. MANUEL DE SIERRALTA. JUAN JOSE DE LA GARZA FALCON. JOSE SALVADOR DE LA GARZA. PEDRO VILLAREAL. JOSE ANTONIO DE LA GARZA FALCON. BARTOLOME TREVINO. Assisting witness, José Benito Lopez. Assisting witness, José Rafael Lopez.

[Continues.]

In the said place of the of the river, in which ended the first line, on the third day of the said month and year, before me, witnesses, and the other persons, the said surveyor measured the surveying cord, marking it as he had made it, fifty varas in length, by the aforementioned vara for measuring cloth in Castile, as upon the foregoing day, and setting the compass, he ran this second line

straight to the north, and at two hundred and six cordelados, we came to the head of one of the lagunes of the sea, besides others that were seen to the east, and having gone round the head of the first one and various others that succeeded, communicating with each other, following always the north course, the surveying cord came into a bend or little pocket, which the said lagunes make, these being on the west and east, until they reach the "lagunas madres," which are formed by the Arroyo Colorado, and into which its waters empty and flow, there being far within this line, something more than a league, a place improved, (poblado,) with houses (hacals) and cattle-pens, named San Juan del Retiro, where are living some herdsmen, (vaqueros,) servants of the aforesaid D. José Salvador de la Garza, and there being no more land on account of our having reached the said lagunas madres, and having nothing before us but water, the second line amounted to nine hundred and ninety-three cordeles in the whole, the cord having been measured over again several times in the distance ran, as was also done on the first day, all of which I set down in this official statement, which the surveyor and interested party, and the others who accompanied us and were knowing to the facts, have signed before me, and the witness with whom I act, as has been stated, all of which I certify. JUAN ANTONIO ECHAVE, MANUEL DE SIERRALTA, JUAN JOSE DE LA GARZA FALCON, José Salvador de la Garza, Pedro Villareal, José Antonio de la Garza Falcon, Bartolome Trevino; assisting witness, Benito Lopez; assisting witness, José Rafael Lopez.

In the place on the banks of the Arroyo Colorado, where it begins and expands its broad lagunes, (lagunas madres,) at which place we arrived by going round and even working through the water of the lagunes, that we had to the west on the second line, when we entered by it the bend or little pocket before mentioned, which thus remains as a natural landmark, together with an artificial one (señal) which was placed there, while at the same time another was placed where the third line began by measuring from one to the other in the Potrero del Esperitu Santo at a distance from the lagunes, which circumstance induced us to execute the survey in this way on account of finding no firm ground or foothold there, (ningun pasó), in which place, before our witnesses, the denunciante, and others already mentioned, the surveyor again measured his cord, which he made fifty varas from staff to staff by the same vara as aforesaid, and setting his compass, began the third line along the meanders [margin] of the said creek (arroyo) up the stream, course west, and at three hundred and nine cordeles, the aforesaid surveyor noticed that the said creek turned south, as though crossing the Potrero del Esperitu Santo, on which account following the said course to the south as well as the said creek permitted, keeping always near its bank at a distance of a hundred cordeles, it was found impossible to follow any line further on account of the country being inundated by a large lake, and little streams [tributaries] running into the Colorado, into which they emptied their waters, as also by a dense and impassable thicket, which joined the said Arroyo Colorado and lake, which entirely prevented the running of this line, but those experienced and well acquainted with the bends which the said Arroyo made, declared that at some distance beyond the place

where we were compelled to stop, the aforesaid Arroyo turned again to the west, as to which line the surveyor agreed with the experts and the interested party that it ought to have, and did have, the same number of varas in length as the first line on the Rio Grande—that is, five hundred and eighty-four cordeles, on account of the second line running along the lagunes (or the second line of the lagunes) (*la segunda linea de los lagunas*) from the south to the north, and by our actual inspection (*vista de ojos*) these corresponded to it for the fourth line, one from the north to the south, as indeed the fence seen upon this line shows; and on account of this calculation the interested party was ordered to establish an artificial landmark, which might serve as a corner, (*señal que serviera de Mojonera*), and this official statement all the proper persons, and those who were knowing to the facts, have signed before me and the witnesses, with whom I act as an examining tribunal, as has been said. All of which I certify. JUAN ANTONIO DE ECHAVE. Manuel de Sierralta, José Salvador de la Garza, Juan José de la Garza Falcon, Bartolome de Trevino; assisting witness, José Rafael Lopez; assisting witness, José Benito Lopez.

In the aforementioned place of the thicket and the lake, which prevented the running of the third line aforementioned, which line was concluded, or came to an end (*se concluijo*) on the seventh day of the said month and year, the fourth line followed; on the eighth day succeeding, in the present and aforesaid month, and as to this last line, it was likewise impossible to follow it up with the surveying cord on account of the impenetrable nature of the thicket, the lakes and drains (*resacas*) which, interwoven with the said thicket, made it difficult by the necessity of deviating from the straight course (*por in dando vuelta*) in most of the said line; but it was agreed to by the experts and the intelligible men who accompanied us that the said insurmountable difficulty (*dicho imposibilidad*) continued along the said line for a distance of five leagues—and in this the interested party agreed, till coming, as we in fact came, out at the fence, which he had set up on this front in the clear ground, (*en lo raso*), at which place the surveyor aforesaid measured his cord, and making it fifty Castilian varas, set his compass, and observed that the said fence ran from north to south, and pursuing this course, we came at two hundred and twenty-five cordeles, to the watering place where this survey commenced, on the Rio Grande del Norte, where it closed, and uniting [adding] the two hundred and twenty-five cordeles with the five leagues through the thicket and water, they make up the quantity of six hundred (seven hundred) and twenty five cordeles; and the said surveyor having already made a calculation for this purpose of the bends and elbows, which the said Rio Grande forms, belonging to the first line, he declared that in these last, and under the aforesaid four lines, were contained fifty-nine square leagues (*Sitios de Ganado Mayor*) eleven and one-half caballerios of land in favor of his Majesty, according to his acquaintance [skill] with [in] this art of surveying, ratifying this by the oath which he has taken; all of which I set down on this official statement before me and my assisting witnesses, the persons already mentioned being present, who signed on their respective accounts, and as to those who could not write, I, the chief justice of the

town of Camargo, and judge commissioned for this business, have done so for them, acting as an examining tribunal, as has been said. I certify. JUAN ANTONIO DE ECHAVE, Manuel de Sierralta, Salvador de la Garza, Juan José de la Garza Falcon, Bartolome Trevino, José Antonio de la Garza Falcon; assisting witness, José Rafael Lopez; assisting witness, José Benito Lopez.

[Continues.]

And notwithstanding that two of the adjacent proprietors made opposition, inasmuch as they did not present their objections in form, nor exhibit their titles, the justice acting as commissioner, proceeded to give the public notices required by law, and a day having been appointed for the sale, it was made in the following form:

[Sale.]

In this said town of Santa Ana de Camargo, on the twenty-second day of the said month and year, and the last day of public notice for the sale, I, the said commissioned judge, ordered the drum to be beaten in the same place directly after high mass, and by the voice of the public crier I gave public notice of the sale before the commandant, (el Sor. Capitan,) the reverend father the priest of this town, various neighbors, and Don José Salvador de la Garza; and seeing that the hour had now arrived in which it is and has been usual and proper (regular) to make the said sale, I order the last call to be given, and there was no one who would bid (pusavia) more than twenty dollars, which D. José Salvador de la Garza has bid, and the said estate (agostadero) was adjudged to him after twelve calls, (con doce pregones,) which I made and repeated on this same day of sale, and so that he, D. José Salvador de la Garza, might have it for his good profit, (buena pro,) and he signed with me and my assisting witnesses, with whom I act as an investigating tribunal, which I certify. JUAN ANTONIO DE ECHAVE, JOSÉ SALVADOR DE LA GARZA; assistant witness, José Benito Lopez; assisting witness, José Rafael Lopez.

[Acceptation.]

In the aforesaid town, on the said day, month, and year, before me, the said justice, (Teniente,) seeing that the thirty days for the daily notice of the sale which I was ordered to give by this order of the the government (este superior despacho) were entirely completed, as well as the day itself which I had fixed for the sale, the said D. José Salvador de la Garza, on his part, was content; and he having expressed his compliance, and accepted the said Potrero, before the commandant, Capitan D. José Antonio de la Garza Falcon, the reverend priest of this town, Brother Francisco Villuendas, the regidor having the first vote, Don Miguel Chapa, the procurador, D. Augustine de la Garza, and other citizens who were present; and in order that this may appear in all time to come, I make this official statement, which the said D. José Salvador de la Garza has signed with

me and my assisting witnesses, acting as an examining tribunal, all of which I certify. JUAN ANTONIO DE ECHAVE, JOSÉ SALVADOR DE LA GARZA ; assisting witness, José Benito Lopez ; assisting witness, José Rafael Lopez.

[Petition.]

I, Balthazar de Vidaurri, for D. José Salvador de la Garza, a resident citizen of the town of Camargo, in the colony of New Santander, in the proceedings as to the denunciation of lands, to which he has given the name of Esperitu Santo, according to the record, (escrito,) of sixty-seven leagues, part the second, so far as the law allows me to state ; that an order having been issued to take the steps prescribed in the royal decree (acordado) for the grant and sale of these lands, all these steps were taken by the justice of the said town of Camargo, as the paper book, (cuaderno,) in which he gives an account of his proceedings, shows, without making any other opposition than that of Don Bartolome Fernandez, an adjacent proprietor on the side of the entrance of the Potrero, with respect to the fourth and last line, on the ground of its having happened that one of his estates, (tierras,) which ran into the Potrero, on the east to a dry well, was crossed and intersected by this line, that he was asked for his titles, and did not exhibit them, but a period of three months was assigned to him, commencing from the first of September of the year last past, to appear to sustain his opposition in this special tribunal, and he not having done so, I charge him, formally, with contumacy (rebeldia) on the fifty-second leaf. With respect to the sale of the sitios and caballerias, I ought to represent to your honor that they are valued at two dollars per sitio, and one real per caballeria ; but as my principal has suffered so much opposition as the proceedings prove, and his opponents knew the necessity he was under to have the lands on account of his property [stock] (bienes) before mentioned, to which he was greatly attached, having been established in there, it was by a motive of malignity, and to do him an injury, as the justice (teniente) states, that they bid up the sitios to twenty dollars. This is an extraordinary disproportion, since what they made him pay is with reference to the price of the valuation, nine times more than the proper price, and it is not permitted, even in public auctions, to sell with such extremes, (en estos terminos,) for in these auctions bidders cannot go beyond the highest price, [i. e., fixed as the just valuation,] and this is much more true when the affair is effected with bad faith, and a disposition to do an injury to him who buys from necessity, as was the case in the present instance : wherefore, I pray your honor that while you are pleased to approve the proceedings had, and the sale made to my principal, you will be pleased also to reduce the price to what will be just, and this your prudent judgment will determine, and in case this cannot be done, (which he hopes will not be the case,) my principal will have to pay the full amount of the twenty dollars for the sitios, and of the real for the caballerias, which are eleven and a half, and fifty-nine sitios, in order that the necessary instrument to serve him as a title, and by virtue of which he can enter into posses-

sion of the lands if he should desire it, may be in good time delivered to him, and as to all this submitting it to the examination of the attorney of the treasury, (abogado fiscal,) I pray your honor to be pleased to order, and I here ask, and I take the formal oath as to all necessary averments, &c. DOCTOR MANUEL DE GARISNAIM; ARAJUTI; BALTASAR DE VIDAURRI.

[Order.]

Mexico, the seventeenth of July, one thousand seven hundred and eighty, to the attorney of the treasury (or of the government) the Oider and special judge has so ordered, (as above prayed,) and signed with his rubric (marked with a rubric) before me. JOSÉ MONTALVAN, Royal and Provincial Notary.

[Reply of the Attorney of the Treasury.]

The Attorney of the Treasury, upon examination of these proceedings on the denunciation made by Don José Salvador de la Garza, of the Potrero called that of Esperitu Santo in the colony of New Santander, says, that by virtue of the second order issued for the proceedings under the royal decree, (acordado,) the statements of the party, and these taken officially, were received in the fifth paper-book, by which the law was shown (resultó) to belong to the public domain of the Crown, (realenga,) and the denunciation having been publicly commanded (publicado) on the thirty-first leaf, the actual inspection (vista de ojos) and survey followed, in which it was found (reconoció) that the Potrero contained fifty-nine sitios de ganado mayor, which were rated at two dollars, besides eleven and a half caballerias, estimated at a real, at which prices the denunciante made a bid; and public notices having been given, another third party appeared, who made various bids, until, on running up to twenty dollars for each sitio, the sale was made to the denunciante himself, without any important defect appearing in the said proceedings, since it is of no moment that the denunciation was published after the testimony had been taken; and though this did not precede the citation of the neighbors, (circunvecinos,) on account of the distance of their residences, they were received for the actual inspection (vista de ojos) and survey in which they were present, according to the thirty-third leaf on the reverse and the following. The matter most worthy of note which appears, [in the proceedings,] is the opposition that D. Bartolome Fernandez made on the fourth leaf, saying that by the line which had been run from the north to the south, some land of his was taken, since his tract ought to extend to a dry well which had been adopted as a boundary in the surveys made, in favor of D. Narciso Cavazos; but on notifying him on the reverse of the leaf to exhibit his titles, he answered, that they were in this tribunal, on which account he was given, according to leaf fifty-two, a period of three months, counting from the first of September of the year last passed, to appear in this tribunal to support his opposition, which he has not done in more than ten, recurring from that time. To this it may be

added, that the proceedings and surveys which were made upon the application of D. Narciso Cavazos, are those that begin the first paper-book (quaderno) of these acts, (autos,) in which it appears on the thirtieth leaf that they ran below the watering place (abrevadero) of D. Eugenio and D. Bartholomé Fernandez, and these [surveys] were disapproved by your honor on the reverse of the fifty-first leaf, on account of its having appeared that the denunciante, D. José Salvador de la Garza, had settled (poblado) the Potrero from the year seventeen hundred and seventy-one, and had denounced it in that of seventy-two before the lieutenant general of the colony, and that various other persons had joined him under his protection and with his consent, and placed there their stock, among whom was the aforesaid Cavazos, and that the latter, notwithstanding this, denounced almost all the Potrero, giving it the name of Santa Rita; and after the proceeding required by the royal decree (acordado) had been had, an application was made by the denunciante, and they were declared of no avail, and ordered to be made again in favor of D. José Salvador de la Garza, who was the first to settle and denounce. Whence it follows that the surveys made upon the application of Cavazos were of no benefit to him, nor to Fernandez, who has exhibited no other title, and the more readily, as it may be inferred that he has also entered under the protection of the denunciante, or of some one of those to whom he had granted permission to introduce their stock. It ought also to be observed that the valuation of the sitios was two dollars for each one, and that on account of the bids they were knocked off to the denunciante for (at the rate of) twenty dollars; on which account he asks the price to be reduced to what the prudent judgment of your honor may think right, although in case this is not done, he states that he will have to pay the full amount, compelled thereto by necessity; and on this point it is to be noticed that on the fifty-eighth leaf of the paper-book the commissioner (comisario) shows that the citizens of the town of Reynosa, to injure the denunciante, ran up the price to twenty dollars. It also appears by the first paper-book, on the reverse of the fifty-eighth leaf and the following, that the said citizens, influenced from that time forth by D. Narciso Cavazos, filed their opposition (pusieron) on the seventy-fourth leaf to the grant of these lands to Garza; and, collecting together, as the justice (Teniente) of the said town gives us to understand, threw obstacles in his way by preventing the performance of the proceedings required by the royal decree, until a second order was issued committing them to the Justice of Camargo. It likewise appears on the reverse of the thirty-fourth leaf of the first paper-book, that when the first proceedings were had on the application of Cavazos, each sitio de ganado mayor was valued at twelve reals, to which the Attorney of the Treasury (Abogado Fiscal) ought to add with the good faith which belongs to his office, that in the internal provinces (provincias internas) and in distant places sitios de ganado mayor are generally valued at these prices of twelve reals and two dollars, or of three or four dollars, and in some occasions at one dollar. And that in the proceedings under his custody as to the estate of Carrisitos, in the same jurisdiction, they are rated at two dollars, and in others upon which he is engaged, as

to lands surveyed between the towns of Reynosa and San Fernando, denounced by D. Antonio de Urizan, the valuation was made at four dollars, by which the Attorney of the Treasury does not oppose your honor exercising the functions belonging to your office, and reducing the price to the amount which you may think right. Upon consideration of the whole matter, your honor will be pleased to approve the proceedings had, adjudging or granting by way of sale to the denunciante, D. José Salvador de la Garza, the fifty-nine sitios de ganado mayor, and eleven and a half caballerias of the Potrero del Esperitu Santo under the natural outlines (linderos) which the surveys state, (que expresan las medidas,) and ordering that when the amount which the sale brought, or that to which your judgment may reduce it, is fully paid, and the duty of "media-annata" is satisfied, a report be made with these proceedings annexed to the royal audience, for the confirmation, if such shall be their supreme pleasure, and that after their return (*i. e.*, the proceedings) the corresponding title be issued. Mexico, and July twenty-second, one thousand seven hundred and eighty. Licenciante MARTIN DE ARAMBURN.

[Order.]

Mexico, the twenty-ninth of July, one thousand seven hundred and eighty. In consideration of these proceedings, together with what is asked by the attorney of the treasury, I approve the proceedings had, and I adjudge and grant by way of sale (*haya adjudicacion y merced, pro via de venta*) to D. José Salvador de la Garza, the fifty-nine sitios de Ganado Mayor (square leagues) and eleven caballerias of land under the natural boundaries (linderos) which the surveys state, (que expresan los medidas.) And in consideration of the circumstances of the affair, and the ill-designed vexation of the bids that were made, it being apparent that this was done with the intention to injure the denunciante, by reason of the permanent establishment (*radicacion*) of this property (*bienes*) in the Potrero del Esperitu Santo, and it appearing as it does appear in this tribunal, by different documents (*espedientes*) which we have preserved, that the sitios de Ganado Mayor in those places are valued and sold, the highest at four dollars, I think it proper to reduce the price from twenty dollars to that of eight dollars, to which sum it amounts by quadrupling the value of these sitios; and upon the full payment into the royal treasury [chest] (*caja*) of this Court, of the four hundred and seventy-two dollars, to which this amounts, together with the eleven reals for the eleven caballerias, and their media annata, these proceedings (*autos*) shall pass to the royal audience for the confirmation of this grant, and when they are returned, notice of it shall be given for the issuance of the title or whatever may be fitting. D. Francisco Xavier de Gamboa, of the Council of his Majesty, his oidor in the royal audience of this New Spain, and special judge of sales and purchases of vacant and public (*realengos*) land and waters, has thus ordered and signed. GAMBOA. Before me, JOSE DE MONTALVAN, (*Escribano Real y de Provincia*), Royal and Provincial Notary.

[Order.]

To the royal officers of the royal treasury and chest (hacienda y caja) of this Court: Be pleased to order the receipt of four hundred and seventy-three dollars, three reals, at which Don Francisco Xavier de Gamboa, as special judge of vacant and public (realengos) lands and waters, has made adjudication and grant by way of sale to Don José Salvador de la Garza, of fifty-nine sitios de Ganado Mayor, and eleven caballerias of land, within the limits of the colony of New Santander, jurisdiction of the new kingdom of Leon. And this amount shall be placed to a separate account, in consideration of what is usual for its remittance to Spain in the customary form, returning this order endorsed, that it may appear in the proceedings on this subject.

Mexico, the twenty-ninth of July, one thousand seven hundred and eighty. JOSE DE MONTALVAN, Royal and Provincial Notary. Entered on the two hundred and forty second leaf (fajas) of the book of orders villetes on the third of August, one thousand seven hundred and eighty. GUERRO.

[Another.]

On the third of August, one thousand seven hundred and eighty, the four hundred and seventy-three dollars, three reals, (terminos,) which this order mentions, were paid into the royal chest (caja.) MEXIA, CORILLA.

[Certificate.]

On the third of August, one thousand seven hundred and eighty, D. José Salvador de la Garza, to whom the especial judge of lands has adjudged and granted, by way of sale, fifty-nine sitios of Ganado Mayor, and eleven caballerias within the limits of the colony of New Santander, paid in reals of this Court, eleven dollars, six reals and eight grains, which the royal duty of "media annata" imposed, computed at the half of what at five per centum the amount of four hundred and seventy-three dollars, three reals brings, which latter sum he has paid, (servido,) as appears by the order, which, with the endorsements of the royal officers, remains in the general office of accounts of the said royal duty under my charge. In testimony whereof, and that it may appear wherever proper, I give the present certificate in Mexico on the said day, month and year. LASARO DE ARROCETE Y GARZA.

[Reply of the Fiscal, nearly effaced.]

Very Powerful Lord: The only thing which can be found to prevent (como embaraso) the grant and the sale of the lands of the Potrero del Espiritu Santo, deserving the supreme confirmation and approbation of your highness, is that Don Bartolomé Fernandez has not yet been heard as to the opposition he made in respect to a certain

place in them, and likewise that the sale and adjudication (*remate*) has not been made for the price of twenty dollars, which the bidder, D. José Salvador de la Garza, offered for each sitio, being reduced by your especial judge to that of eight dollars, which seemed to him to be their just and true worth; and as to the first point, it must be supposed that the said D. Bartolomé Fernandez, although required, has not shown or exhibited the titles by virtue whereof he made his opposition, which circumstance persuades us that this opposition was entirely based upon the proceedings and surveys had upon the application of D. José Narciso Cabazos, which, as they were disapproved and annulled, could not give him any right, and this, together with the fact of his not having appeared in the special tribunal either in the three months assigned to him or in the other seven which have elapsed since, evidences a violent presumption that his opposition was malicious and unfounded, and raised (*deducida*) with the object of hindering and delaying the resolution of the matter to the prejudice not only of D. José Salvador de la Garza, but also of the royal treasury, in which account it is proper that it neither be considered as of moment nor worthy of such attention as to delay or suspend on its account the confirmation. And as to the reduction and abatement of the price of the sitios made by your special judge, although on the one side it must be considered that the cause of the sale of the said sitios coming to be made as high as twenty dollars, was that D. Salvador de la Garza had suffered so much opposition, and his opponents had learned the necessity he was in of obtaining these lands, on account of his stock having been established in them, so that assured by this circumstance that Garza would not hesitate (*repararia*) as to the price by a motive of malignity and to do him an injury, as the justice (*Teniente*) states, they ran up the sitios to twenty dollars; still, on the other side it is to be noticed that, as to the first bid of ten dollars, it cannot be said that there was fraud in it, because this bid is not so much out of proportion with the two dollars at which the sitios were valued, and this is more evident since (*y mas cuando*) as the attorney of the treasury (*Abogado Fiscal*) states, and the aforesaid order of your special judge supposes, in these provinces the sitios are generally worth two, three or four dollars, the distance from which sum to that of ten dollars is not so great that it can be said to exceed the bounds of justice, particularly if we reflect that things are worth as much as they will bring. On which considerations it is the opinion of the Fiscal (*i. e.*, the Attorney General, or chief law adviser of the crown,) that it would be proper to abate and reduce the amount of twenty dollars, at which the property was knocked off (*se verifico el remate*) to that of ten dollars, which is the mean, and at which the first bid was made. Wherefore your Highness will be pleased, if it should be your supreme pleasure to confirm and approve the grant and sale made by the special tribunal to D. José de la Garza of the lands of the Potrero, named the Esperitu Santo, under the limits and natural outlines (*terminos y linderos*) which the surveys state (*que expresan los medidas*) to do so with the proviso that he must contribute and pay the other two dollars belonging to each sitio, its price being reduced to that of ten dollars, the proceedings being then returned to the said

tribunal, in order that after the aforesaid payment is made, the corresponding title may be issued.

Mexico, October twenty-first, one thousand seven hundred and eighty. MERINO.

[Order.]

Mexico, December eleventh, one thousand seven hundred and eighty: Let it be reported with the proceedings annexed—The Regent VILLAVRUTIA, ASEDO, LICENTIAE FLORES.

[Order of the Royal Audience.]

In the city of Mexico, on the eighteenth day of July, one thousand seven hundred and eighty-one: The President Regent and Oidores (Presidente regente y oidores) of the Royal Audience of New Spain, having examined the proceedings which the Oidor Don Francisco Xavier de Gamboa, Special Judge of Lands and Waters, has reported as to the denunciation made by Don José Salvador de la Garza, of the Potrero named Esperitu Santo, in the colony of New Santander, in which are comprised fifty-nine sitios of Ganado Mayor, and eleven caballerias of land, in order that the adjudication which the said Judge, on the twenty-ninth day of July made of the said sitios and caballerias of land might be confirmed, reducing the price from twenty dollars, to which the bids that were made ran, to that of eight dollars, to which it amounts by quadrupling the estimated value of the said sitios, for the reasons which he states in his order; having examined likewise the proceedings that were had by the order of the said minister, for the said adjudication, and what is asked by the fiscal of his Majesty in his reply of the twenty-ninth of October of the same year of eighty, with the other fitting circumstances—Have said that they confirmed and have confirmed (confirmaron y confirmaron) the grant made by way of sale by the aforesaid special Judge of Lands to D. José Salvador de la Garza of the sitios and caballerias which his decree of the twenty-ninth of July of the year last past comprehends, with the proviso that the price of each one of them must be paid at the rate of ten dollars, and that consequently whatever with respect to this is wanting to complete this amount, must be contributed and paid, as likewise the sum of one hundred dollars as a contribution to his Majesty for the favor conferred in excusing him from having to apply to his Royal Person for the confirmation in the form provided in the royal order (cedula) of the fifteenth of October, one thousand five hundred and forty. And they likewise ordered and have ordered (mandaron y mandaron) that for the prompt fulfilment of all, everything respecting this subject be returned to the aforesaid tribunal of lands. And so they have decided and signed by their Rubrics—REGENTE VILLAVRUTIA, ASEDO, LUGANDO, JOSE MACSIMO VILLASECA. This corresponds with its original, to which I refer. I certify—JOSE MAXSIMO VILLASECA.

[Order.] [Villette.]

To the royal officers of the royal treasury and chest of this court: Be pleased to order the receipt from D. Salvador de la Garza of one

hundred and eighteen dollars, on account of the two additional dollars for each sitio of the fifty-nine which Don Francisco Xavier de Gamboa, special judge of land and waters, has adjudicated and granted to him by way of sale, in the colony of New Santander, as is provided by the royal audience, and also one hundred dollars that the said royal tribunal has fixed for the favor of the confirmation. And this amount shall be accounted for separately, in view of what is usual for its remittance to Spain, in the customary form, this order being returned endorsed, that it may appear in the proceedings upon the subject. Mexico, the twelfth of September, one thousand seven hundred and eighty-one. JOSE DE MONTALVAN, royal and provincial notary.

[Endorsement.]

Entered on the reverse of the hundred and seventy-third leaf of the book of orders (villettes) on the thirtieth of September, one thousand seven hundred and eighty-one. BARRANDEGUEL.

[Another.]

On the thirteenth of September, one thousand seven hundred and eighty-one, the two hundred and eighteen dollars contained in this order were paid into these royal chests, (cajas.) MEXIA, CARILLO.

[Certificate.]

On the thirtieth of September, one thousand seven hundred and eighty-one, D. Salvador de la Garza, to whom the royal audience of this capital has confirmed the grant which D. Francisco Xavier de Gamboa, as special judge of lands, has made to him of fifty-nine sitios, within the limits of the colony of New Santander, ordering him to pay two dollars more for each sitio, on the price for which the grant was made to him, has paid into the royal chests of this court sixteen dollars, five reals, nine grains, which the royal duty of media annata caused, in this form: two dollars, seven tomines, three grains, as the half of the income at five per centum per annum, of the sum of one hundred and eighteen dollars, the amount of the two additional dollars on the value of the lands, and the remaining thirteen dollars, six tomines, six grains for the favor of the confirmation; and as is shown by the order which, with the endorsement of the royal officers, remains in their general office of accounts under my charge. In testimony whereof, and that it may appear whenever proper, I give the present certificate in Mexico, on the said day, month, and year. On account of the absence of the accountant. DIEGO DE CAVAMBIAS.

[Continues.]

In consideration of the order of the president regente and oidors (presidente regente y oidores) of the royal audience, and in pursuance of a decree which I made on the tenth day of the present month, I

have determined to issue these presents, by which, exercising the powers conferred on me by the royal decree and instruction of the fifteenth of October, seventeen hundred and fifty-four, I declare that D. José Salvador de la Garza has complied with what is ordered in it, (i. e., the royal order,) and in the name of his Majesty, (whom may God preserve,) and without prejudice to any third person, or community of Indians, I admit him to purchase, I adjudge and grant by way of sale fifty-nine sitios de ganado mayor, and eleven caballerias of land, within the limits of the colony of New Santander, and not exceeding its natural boundaries, (linderos;) I supply and dispense with any defect of the grant or of vicious titles, and the defects in his possession of these lands, in order that he may not be obliged either on this account or on any other, to submit to a resurvey, (no se le oblige á medidas,) nor compelled to exhibit any other title to be given to him, since I now give him as ample and sufficient a title as he may have need of for the property (propiedad) of the said lands, whose fruits and whatsoever ways, (entradas y salidas,) uses, custom, and servitudes it has and possesses by custom and by law, (de fuero y de derecho,) he may enjoy without excepting or reserving anything from the said Don José Salvador, or whoever may have his title (causa) or represent his rights, with the proviso that he must stock and cultivate them with what they require in conformity with the ordinances of this kingdom which treat upon this subject; and that if at any time the whole or a part of the said lands is needed for any establishment (fundacion) of a fort, town, or place, he must leave what may be thus needed free and unencumbered (libre y desembarasado) on being paid what it may be worth at the time, (pagandole lo que a la razon valiere;) with which provisos let them (that is, the lands) be his, and his heirs and successors, as held and acquired by their own and a legitimate title of property, which is these presents. And I order the justice (teniente) of that province, that whenever the aforesaid Don José Salvador de la Garza may ask it, he shall give him entry, and put him in possession of the said lands, on the citation of the adjacent proprietors, notwithstanding any opposition, and without allowing any diminution of his rights, (in causar despago alguno;) and that the said justice shall not consent that he be deprived of the possession given him without being first heard according to custom and law, delivering to him when he is done (venido) the proceedings which may be had in continuation of this title as a protection of his right. Mexico, the twenty-sixth of September, one thousand seven hundred and eighty-one—interlined fifty-one—incorrect—crossed out—exhibition—fifteen: of the province: thirty, and incorrect.

Don Francisco Xavier de Gamboa—by order of the oider and special judge—Joseph de Montalvan, royal and provincial notary—fees sixty dollars, including paper and writing, and no more, upon my oath, (asi lo juro.)—A Rubric.

Your honor admits to purchase, adjudicates, and grants, by way of sale, fifty nine sitios de Ganado Mayor and eleven caballerias of land within the limits of the colony of New Santander, to D. José Salvador de la Garza, in consequence of his having paid into royal the chest of this

court the amount of their price, the favor of their confirmacion, and the media annata charged to him, etc.

[On the last page.]

Mexico, September twenty-sixth, one thousand seven hundred and eighty-one.

Title of purchase, adjudication, and grant of fifty-nine sitios de Ganado Mayor and eleven caballerias of land (bende) made by the special judge of this kingdom, and confirmed by the royal audience, in favor of D. José Salvador de la Garza, a citizen of the town of Camargo, within the limits of the colony of New Santander, etc.

[On the first title-page of the old title.]

MEXICO, *September 26, 1781.*

Title of lands in the Potrero named that of the Esperitu Santo, margins (margines) of the lagunes of, the sea of the Gulf of Mexico, acquired (conquistados) by D. José Salvador de la Garza, resident citizen of the town of Camargo, in the year 1781.

A Rubric.

No. 35.

Passage from a letter from N. P. Trist to James Buchanan, dated Jan. 25, 1848, contained in Executive Document No. 52, 1st session 30th Congress, pp. 288-293.

I will now enter upon the subject of the treaty itself. The negotiation has been an exceedingly laborious one, and has occupied me without intermission for several weeks, during as many hours of every twenty-four as could possibly be given by me to work; and at no other period of my life, so strong has my health become, could I have undergone the same amount of labor.

Independently of the desirableness that the treaty should be a good one, the very peculiar posture of affairs in this country required that it should be such as to *protect itself* against the tempest of objections ready gathered to burst upon it, as the last resource for overwhelming and upturning the government, in order that the object may be accomplished of compelling our country into an amalgamation with this by rendering peace impossible in any other way. In order that it might so protect itself, it was requisite, not merely that the treaty should present the fewest possible features that could be objected to, but that it should, with reference to the fears, the suspicions, and even the prejudices of the Mexican people, carry upon its face as many positive recommendations as the nature of the subjects stipulated upon rendered practicable.

The plan upon which I proceeded to arrive at such a result was, in the first place, to request the Mexican commissioners to take the projet

of the United States as a basis, and to suggest such modifications as might seem to them desirable. The result of this request was an entire new draught from them, in which but very little of our projet was retained, and in which I found very little that could be acceded to, at least without material changes, either as to substance or as to form. It answered, however, as a basis for me to work upon in preparing substitutes for articles contained in their draught, governing myself by our projet, by my instructions, and, where these did not touch the subject, by the treaties which have been entered into by our country. When these resources all failed, I had to rely on such knowledge as I possess of her principles and policy with respect to the various projects that presented themselves. My substitutes led to discussions, in which I was led to explain why that which had been proposed by them was inadmissible, wherein consisted the difference between it and the proposed substitute, and why this presented the only way and the only degree in which the object could be obtained. In this manner modifications and remodifications succeeded each other, with reference to every topic which the treaty contains, until finally its various stipulations were agreed upon, both as to substance and to form.

As this was done, the articles were written anew by me, translated by one of the commissioners, (Senor Cuevas, who reads English very well, although he does not speak it or understand it when spoken,) and then the phraseology changed in one or the other version, or in both, so that the idiom of both languages might be preserved, whilst at the same time the treaty in both should present in both a correspondence of expressions as well as a perfect identity of sense. In this I had to indulge the gentlemen on the other side (whose language is more peremptory than ours in its requirements for a correct style) by allowing them to put into idiomatic Spanish the meaning of the articles draughted by me, varying the structure as far as they deemed necessary, and then myself writing the articles over again in English so as to make them conform to the Spanish. As the result of this labor the treaty, whilst it is both English and Spanish, and not on either side a mere literal translation from the other, will be found to exhibit a correspondence in the two languages which is by no means common in those which have come under my examination.

Some things which were proposed and strongly insisted upon on the part of the Mexican government were of a nature to admit of nothing but a positive refusal. Among these were the distinct proposals that the treaty should be made under the guarantee of neutral powers, and that it should stipulate absolutely for the submission of all future differences to arbitration. The stipulation on the latter subject, as modified by me, will be found in article 21. In that shape, while it tends to strengthen the treaty in this country, it can do no harm, but may do good, as a formal recognition of the general expediency and duty of using every endeavor to settle differences otherwise than by a resort to the *ultimo ratio*. Besides the two proposals just stated, the negotiation commenced with one to enter into a convention, which, leaving us in possession of the territory comprehended within

our proposed boundary, should submit the whole question between the two countries to arbitration.

The *boundary* is the one defined in the projet with a slight variation at its western extremity, an explanation on which point will be found in the accompanying paper, marked *A*. The one marked *B* relates to the parallel of 32° as a boundary. Upon entering on the negotiation, I had, in pursuance of the views presented in your despatch of the 19th of July, determined to insist upon that parallel, from the Rio Bravo across to the Pacific, as a *sine qua non*. Although there told that it was not intended that I should do so, I presumed that the dispositions entertained by the President at this time required that I should do so now. But, in forming the determination to insist upon this line, I had not adverted to the fact that it constituted an insuperable obstacle to the negotiation of a treaty, no matter what its terms might be in other respects. This was the case, even if the difference between the territory which that line would give us and that comprehended in the boundary of the projet should be ever so inconsiderable. It mattered not whether it was ten miles or ten feet in width, the effect would be all the same, to render a treaty impracticable.

The States of Sonora and Chihuahua, which adjoin New Mexico, had solemnly protested against the transfer of a single foot of their territory, and against the validity of any such transfer, if made. This therefore was a *sine qua non* with the Mexican government, and one which it was absolutely impossible for it to depart from, even if it were ever so strongly disposed to do it, because it would have rendered the ratification of the treaty an impossible thing. Not only would the delegations of those States have opposed it, but it could not have obtained a single vote in its favor. If there be in this country one sentiment more universal and decided than any other, (and this with especial reference to our country and the design imputed to her,) it is the one which denies the possibility of a valid transfer by the general government of any portion of the territory of one of the sovereign States. The argument on this subject is unanswerable. It is set forth with clearness by the puros (or war-until-annexation party,) in the manifesto I referred to in my despatch of the 26th December, as constituting "the last stand made by them in the character of members of the expiring constituent Congress against the consummation of the measure (a treaty of peace) upon which the government is known to them and to every one to be intent." Nor does it avail to urge against this denial of authority in the general government *the supreme law of necessity*, for it is fortified at this point also. It says: If the Union, after having exhausted all its means in defence of its members, finds itself incapable, in regard to any one or more, of protecting them, in such a case let the portion of the republic with respect to which the impossibility of defence exists be *abandoned* for the time. But this inability gives no right to the Union to *alienate* any portion of any State, whether it be for the purpose of purchasing peace for the rest, or any other purpose whatever. No such alienation can be valid.

Thus insurmountable was the obstacle to the adoption of the parallel of 32° as the boundary. The only particular in respect to which it

was practicable to overstep this limitation to the transfer of territory is the small portion of the State of Tamaulipas, lying north of the Rio Bravo, and running a short distance up that river, which strip of country (extending either to the Nueces or as far as the San Antonio, I do not recollect which, and have not the references at hand) just as certainly constituted a part of that State, and not of Texas, at the time when the latter declared her independence, as it is certain that the counties of Accomac and Northampton do now constitute a part of the State of Virginia, and not of Maryland. Tamaulipas, however, has not made any protest on the subject, and it is believed that the boundary will be silently acquiesced in by her, and that, in view of the extreme peculiarity of the case under every aspect, this departure from the principle will not be made a point of by those in favor of peace.

The declaration with which the article on the boundary concludes was a *sine qua non* on the part of the Mexican government. I entertained no doubt whatever of its great importance, in respect to the ratification of the treaty; and my mind is far from being satisfied—such is the state of the public mind on this point—that the ratification would have been practicable without the aid which it gives. It was proposed that it should form an article apart, in terms which were inadmissible. In its present form and place, it is the result of repeated conversations, and was offered by myself; after which several modifications of phraseology were proposed from the other side, a part of which were acceded to and the rest not.

The *indemnity* or amount to be paid by the United States is five millions, less than the sum I was authorized by my instructions to pay for the same boundary, and which a compliance with those instructions would have required me to agree to pay, if necessary to secure that boundary, had a treaty been made in September last, or indeed at any time prior to the receipt of the counter-instructions, which (the *duplicate* thereof) first came to hand on the 16th of November, as the department was advised at the time. Taking into consideration, on the one hand, the time when the offer of twenty millions was made for the same boundary by the United States) not formally or upon paper, but by an intimation from me, which was just as binding,) and the period during which that offer had remained in force; and, on the other hand, the contents of the despatches received by me in November, and those of the President's message, as regards the increased expenditure of blood and treasure attending the prosecution of the war, in connexion with the continued disposition of our government not to exact more than a fair compensation for the expenditure: taking all these things into consideration, and taking also those twenty millions as the standard for my government in estimating the deduction which should be made from it, to bring the sum into accordance with those views, I have deemed it my duty to strike off five millions, and at the same time not to reduce the sum any lower. I made the offer of fifteen millions at once, announcing that it was the highest point to which I could go. I was not at the time aware that the Mexican plenipotentiaries had their hands tied against accepting anything less than thirty millions. This was the case, however, and it has continued to be the case down to this moment. The copies of

the treaty for signature now being made, must stop at the 12th article, until the government at Queretaro shall have consented to accept the fifteen millions, upon learning that I have remained inflexible on that point, even at the risk of the treaty being lost, and shall have made its election as to the mode of payment.

With regard to the *discharge and assumption* of claims, explanations will be found in the accompanying paper, marked *C*.

The condition of the inhabitants of the ceded or transferred territory is the topic upon which most time has been expended, in the modes stated at the commencement of these remarks. It constituted a subject upon which it was all important that the treaty should be guarded at all points, and should recommend itself as strongly as possible. Everything proposed on the other side in regard to it was inadmissible or objectionable in substance or form; and the articles, as they now stand, are the result of draughts prepared by himself, and were repeatedly amplified and otherwise altered, to meet the wishes of the Mexican commissioners. The stipulations regarding the incorporation of the inhabitants into our Union were restricted to the *Mexican* inhabitants, because, as the Mexican commissioners stated, their government has no right to enter into such stipulations in regard to the foreigners who may be residing in the transferred territory. The right of Mexicans residing there, to continue there, retaining the character of Mexican citizens, would follow as a necessary consequence from the right secured to such citizens by the treaty of commerce to go and reside there. On this point, and for the right secured to such citizens, resident or non-resident, to retain the landed property they may now own there, a precedent was afforded by our British treaty of 1794 (articles 2 and 9.) The liberty to "grant, sell, or devise the same to *whom they please*," I qualified by restricting the right of purchase to *Mexicans*. This stipulation is particularly important to land holders on the Rio Bravo, and especially so to the citizens of Tamaulipas, the estates of some of whom, situated south of the Bravo, are dependent in some respects for their value upon lands on the north of that river, which are used as pastures.

With respect to grants of land made by the Mexican authorities, the *proviso* contained in my instructions was strenuously objected to upon a point of national honor and decorum. No such grants had been made since the 13th of May, 1846. This they knew, and consequently the proviso could have no practical effect. But it implied that they had been made, or might have been made, and that nevertheless the government committed the injustice of revoking them; which, in fact, it had authority to do. Moreover, it involved an acknowledgment that, *that* from the day when hostilities broke out on the north of the Rio Bravo, the Mexican government had lost the right to make grants of land in any part of its territory subsequently occupied by us. Feeling the force of these objections, I requested to make sure of the fact stated by them; and also, in regard to no grants having been made in Texas since the revolution, which had been incidentally mentioned by one of them. And this having been done in a manner which left no shade of doubt on their minds, the declaration which will be found at the end of this article 10, was agreed upon in *lieu* of the *proviso*.

The stipulation respecting grantees had been prevented from fulfilling the conditions of their grants, was taken from the Florida treaty; that precedent being modified to meet the necessity of distinguishing between lands in Texas and those situated elsewhere, and of respecting her authority over the subject. This did not permit the declaration that the grants within her limits shall be null and void, as she might have seen fit, or might see fit hereafter, to adopt a different determination. Nor did it permit the declaration that they shall not be obligatory upon her, (as I had at first written it,) except with the qualification "in virtue of the stipulations contained in this article." On the other hand, the right of the United States to stipulate with Mexico in regard to grants of land in Texas seemed to me, beyond the possibility of question, to be involved in the transfer from Texas to the United States of the authority to make a treaty of peace between her and Mexico.

Letter from the Mexican commissioners to Mr. Trist, September 6, 1847, in same document, pp. 335-338.

The Mexican Commissioners to Mr. Trist.

(Translation.)

House of Alfara, on the Chapultepec Causeway.

SEPTEMBER 6, 1847.

The undersigned, commissioned by the government of the Mexican republic to concert with your excellency an arrangement for peace, on placing in your hands the counter-project which they have framed conformably to the last instructions of their government, think proper to accompany it with the observations contained in this note, which will tend to place in a clearer light the pacific disposition of Mexico in the contest which unfortunately separates both countries. The 4th article of the projet which your excellency was pleased to deliver us on the 27th of August last, and which has been the subject of our latter conferences, relates to the cession, on the part of Mexico, 1st, of the State of Texas; 2d, of the territory on this side of the limits of that State, extending to the left bank of the Bravo, and to the southern frontier of New Mexico; 3d, of all New Mexico; 4th, of the two Californias.

The existing war has been undertaken solely on account of the territory of the State of Texas, respecting which the North American republic presents, as its title, the act of the said State by which it was annexed to the North American confederation, after having proclaimed its independence of Mexico. The Mexican republic offering (as we have informed your excellency) to consent, for a proper indemnification, to the pretensions of the government of Washington to the territory of Texas, the cause of the war has disappeared, and the war itself ought to cease, since there is no warrant for its continuance. To the other territories mentioned in the 4th article of your excellency's draught, no right has heretofore been asserted by the republic of North

America, nor do we believe it possible for it to assert any. Consequently, it could not require them to accept by the right of conquest, or by the title which will result from the cession or sale which Mexico might now make. But, as we are persuaded that the republic of Washington will not only absolutely repel, but will hold in abhorrence the first of these titles, and as, on the other hand, it would be a new thing, and contrary to every idea of justice, to make war upon a people for no other reason than because it refused to sell territory which its neighbor sought to buy, we expect from the justice of the government and people of North America that the ample modification which we have to propose to the cession of territory (beyond that of the State of Texas) contemplated by the said article 4, will not be a motive to persist in a war which the worthy general of the North American troops has justly styled *unnatural*.

In our conferences, we have informed your excellency that Mexico cannot cede the belt which lies between the left bank of the Bravo and the right of the Nueces. The reason entertained for this is not alone the full certainty that such territory never belonged to the State of Texas, nor is it founded on the great value, in the abstract, which is placed upon it. It is because that belt, together with the Bravo, forms the natural barrier for Mexico, both in a military and a commercial sense; and the barrier of no State ought to be sought, and no State can abandon its barrier. But, in order to remove all cause for trouble hereafter, the government of Mexico engages not to found new settlements or establish colonies in the space between the two rivers, so that, remaining in its present uninhabited condition, it may serve as a safeguard equally to both republics. Pursuant to our instructions, the preservation of this territory is a condition *sine qua non*. Sentiments of honor and delicacy, (which your excellency's noble character will know how worthily to estimate,) even more than a calculation of interest, prevent our government from consenting to the dismemberment of New Mexico. Upon this point we deem it superfluous to add anything to that which we had the honor to explain to you orally in our conferences. The cession of Lower California, which would be of little advantage to the republic of North America, offers great embarrassments to Mexico, considering the position of that peninsula opposite to our coast of Sonora, from which it is separated by the narrow Gulf of Cortes. Your excellency has appreciated our remarks on this point, and we have been gratified to see that you have yielded to them. The preservation of Lower California would be enough to make it indispensable to keep a part of Upper California; for otherwise, that peninsula would be without any communication by land with the rest of the republic, which is always a great embarrassment, especially for a power like Mexico, which is not maritime. The grant which is offered by our government (for the proper equivalent) of that part of Upper California which extends from the 37th degree upwards, not only allows to the United States the acquisition of an excellent coast, fertile lands, and also of untouched mines, but also presents to it the advantage of extending to that limit its Oregon possessions. The wisdom of the government of Washington, and the praiseworthy industry of

the American people, will know how to draw rich fruits from the important acquisition which we now offer.

In the 8th article of your excellency's draught, the grant of a free passage across the Isthmus of Tehuantepec to the South Sea, is sought in favor of the North American citizens. We have orally explained to your excellency that, some years since, the government of the republic granted to a private contractor a privilege, with reference to this object, which was soon transferred, with the sanction of the same government, to English subjects, of whose rights Mexico cannot dispose. Therefore your excellency will not wonder that upon this point we do not accede to the desires of your government.

We have entered into this plain statement of the motives which the republic has for not agreeing to alienate all the territory asked of it beyond the State of Texas, because we desire that the North American government and people may be persuaded that our partial refusal does not proceed from feelings of aversion created by the antecedents of this war, or by the sufferings which it has inflicted upon Mexico, but rests upon considerations dictated by reason and justice, which would operate at any time with reference to the most friendly nation, although our relations of friendship with her might be of the closest character. The other changes, which your Excellency will find in our counter draught, are of minor moment, and we believe that there will be no serious objection to them. The subject contained in the 12th article has before now been mentioned in your Excellency's country. We flatter ourselves, from the integrity of your government, that it will not refuse to contract an engagement so conformable to honor and that good harmony in which two neighboring people ought to live.

The peace between both countries will be established with greater solidity if a friendly power, (England,) which has so nobly offered its good offices to Mexico and the United States in the present contest, will now offer to grant its guarantee for the faithful fulfilment of the treaty which may be concluded. The Mexican government understands that it would be very proper to solicit this guarantee.

Our government directs us to recommend to your Excellency that you will be pleased to communicate your decision upon the counter draught, which we have the honor to present to you, within three days.

The good and salutary work can, in our opinion, reach a happy end, if each of the contending parties resolves to abandon some of its original pretensions. This has always been the case; and no nation ever hesitated, at such a juncture, to make great sacrifices to extinguish the destructive flame of war. Mexico and the United States have special reasons thus to act. We must confess, not without a blush, we are exhibiting to mankind the scandal of two Christian nations, of two republics, in the presence of all the monarchies, mutually doing to one another all the harm we can by disputes about boundaries, when we have an excess of land to people and to cultivate, in the beautiful hemisphere where Providence caused us to be born. We venture to commend these considerations to your Excellency, before you come to a definite decision upon our propositions.

We consequently do ourselves the honor to offer you our devotion and respect.

JOSE J. DE HERRERA.
BERNADO COUTO.
IGNACIO MORA Y VILLAMIL.
MIGUEL ATRISTAIN.

To his Excellency DON NICHOLAS TRIST, *deputed with full powers by the Government of the United States to the Government of the Mexican Republic.*

Message of the President in Executive Document No. 50, Second Session, 30th Congress, pp. 1-9.

WEDNESDAY, *February* 23, 1848.

The following message was received from the President of the United States, by Mr. Walker, his Secretary :

To the Senate of the United States: I lay before the Senate, for their consideration and advice as to its ratification, a treaty of peace, friendship, limits, and settlement, signed at the city of Guadalupe Hidalgo, on the second day of February, 1848, by N. P. Trist, on the part of the United States, and by plenipotentiaries appointed for that purpose on the part of the Mexican government.

I deem it to be my duty to state that the recall of Mr. Trist as Commissioner of the United States, of which Congress was informed in my annual message, was dictated by a belief that his continued presence with the army could be productive of no good, but might do much harm by encouraging the delusive hopes and false impressions of the Mexicans, and that his recall would satisfy Mexico that the United States had no terms of peace more favorable to offer.

Directions were given that any propositions for peace, which Mexico might make, should be received and transmitted by the commanding general of our forces to the United States.

It was not expected that Mr. Trist would remain in Mexico, or continue in the exercise of the functions of the office of Commissioner after he received his letter of recall. He has, however, done so; and the plenipotentiaries of the government of Mexico, with a full knowledge of the fact, have concluded with him a treaty. I have examined it with a full sense of the extraneous circumstances attending its conclusion and signature, which might be objected to; but, conforming as it does substantially on the main questions of boundary and indemnity, to the terms which our Commissioner, when he left the United States in April last, was authorized to offer, and animated, as I am, by the spirit which has governed all my official conduct towards Mexico, I have felt it to be my duty to submit it to the Senate for their consideration, with a view to its ratification.

[To the tenth article of the treaty there are serious objections, and no instructions given to Mr. Trist contemplated or authorized its insertion. The public lands within the limits of Texas belong to that State, and this government has no power to dispose of them, or to change the conditions of grants already made. All valid titles to

land within the other territories ceded to the United States will remain unaffected by the change of sovereignty ; and I therefore submit that this article should not be ratified as a part of the treaty.]

There may be reason to apprehend that the ratification of "the additional and secret article" might unreasonably delay and embarrass the final action on the treaty by Mexico. I therefore submit whether that article should not be rejected by the Senate.

If the treaty shall be ratified as proposed to be amended, the cession of territory made by it to the United States as indemnity, the provision for the satisfaction of the claims of our injured citizens, and the permanent establishment of the boundary of one of the States of the Union, are objects gained of great national importance ; while the magnanimous forbearance exhibited towards Mexico, it is hoped, may insure a lasting peace and good neighborhood between the two countries.

I communicate herewith a copy of the instructions given to *Mr. Slidell*, in November, 1845, as envoy extraordinary and minister plenipotentiary to Mexico ; a copy of the instructions given to *Mr. Trist* in April last, and such of the correspondence of the latter with the Department of State, not heretofore communicated to Congress, as will enable the Senate to understand the action which has been had with a view to the adjustment of our difficulties with Mexico.

JAMES K. POLK.

WASHINGTON, *February 22*, 1848.

The message was read.

The treaty of peace, friendship, limits, and settlement between the United States of America and Mexican republic, concluded at Guadalupe Hidalgo, on the 2d of February, in the year 1848, was read the first time.

On motion by Mr. Sevier,

Ordered, That the treaty, message, and accompanying documents be referred to the Committee on Foreign Relations, and printed in confidence for the use of the Senate.

MONDAY, *February, 28*, 1848.

Mr. Sevier, from the Committee on Foreign Relations, to whom was referred, the 23d instant, the treaty of peace, friendship, limits, and settlement between the United States of America and the Mexican republic, concluded at Guadalupe Hidalgo on the 2d day of February, in the year 1848, reported it without amendment.

Mr. Webster submitted the following resolution for consideration :

Resolved, That the further consideration of the message of the President of the United States, of the 22d of February, 1848, be postponed ; and that it be recommended to the President of the United States immediately to nominate commissioners plenipotentiaries, not fewer than three, to proceed to Mexico for the purpose of negotiating a treaty of peace, boundaries, and indemnities due to American citizens.

Mr. Houston submitted the following resolution for consideration :

Whereas, The President of the United States did, on the 22d instant, submit to the Senate an instrument purporting to be a treaty between the government of the United States and the Mexican republic, signed at Guadalupe Hidalgo, on the second day of this month, by Nicholas P. Trist, falsely assuming to act under the authority of the President of the United States, and Luis G. Cuevas, Bernado Couto, and Mig. Atristain, pretending to act by the authority of Mexico :

And whereas, The said Nicholas P. Trist was, at the time of signing said instrument, acting contumaciously and in direct violation of the orders of his government recalling him, which orders he had communicated to the Mexican authorities :

And whereas, The said instrument having been signed by a person falsely representing himself as a minister of this government while acting in violation of his instructions, the laws of the land, and the Constitution of this Union, and to the great scandal of our national character, renders the said instrument utterly void and ineffectual ; it would therefore be dangerous, if not ruinous, for the Senate, by their decision, to sanction such a flagrant disregard of the institutions of the country, as it would be holding out inducements to similar acts by vicious men, who may be actuated by the most corrupt and treasonable intentions against the liberties of the country :

And whereas, The very peculiar circumstances under which the said instrument was concluded, do not leave it free from well-grounded suspicion of the interference of agents of other powers, not parties to the instrument, and whose interests are adverse to those of the United States ; and further, it is manifest, from the correspondence before the Senate, that information affecting the character of the country, as well as the instrument itself, is not before this body ; and as the individual who sent the same has promised much matter with the duplicate, which is to arrive soon :

And whereas, It has been declared to be the object of the present war to obtain " indemnity for the past and security for the future," and as it is most probable that the domain proposed to be ceded by Mr. Trist's agreement is all granted by Mexico, or will be covered by fraudulent grants if the agreement should become a treaty, leaving to the United States mere civil and political jurisdiction of the same, while it would be encumbered by conditions relative to the Indians, which would be worth more in a pecuniary point of view than all the vacant land acquired, and which would leave the government of the United States no indemnity in honor for the lives of its gallant sons who have fallen, no indemnity for the millions expended, nor for the blur which must dim the lustre of our national escutcheon :

And whereas, The conduct of the authorities of Mexico has been such as to justify this government to treat her as a conquered people, and to claim a full indemnity for all the injuries which we, as a nation, have sustained from her since she has claimed to be a republic ; it would, therefore, be but just to the nation, and beneficent to those of her people who would fall thereby into the United States, that the line of the portion of territory to be claimed should begin one league

south of Tampico, on the sea shore, and from thence running in a straight line west-northwest from the beginning, and passing one league south of San Louis Potosi to the summit of the main ridge of the Sierra Madre, and thence northwest along the said ridge of the Madre until it strikes the twenty-fifth degree of north latitude, and then with said degree or parallel west until it reaches the eastern line of Lower California; thence pursuing said line south and west, until it reaches the Pacific Ocean, including such islands as may lie within six leagues of the shore, acquired by the United States as a just "indemnity for the past:"

And whereas, It is not probable, or even to be supposed, that Mexico will be able to establish or maintain order for the future, it is then proper, and will be wisdom, to retain possession of Vera Cruz, and the Castle of San Juan de Ulloa, to be garrisoned by a force sufficient for its defence and other points, if needful, "as security for the future," until Mexico shall manifest her capacity or incapacity for self-government, so that foreign powers may not have a pretext for interference in the policy of nations upon this continent; and if they should attempt to interfere, that the United States will be in a condition to vindicate her rights and national honor.

And whereas, If Mexico is acting in good faith, and is disposed to carry out the agreement now before the Senate for its action, the Executive has power to send an authorized agent or agents, to give such instructions as he may advise, and thereby rebuke the audacious interference of unauthorized agents in the diplomacy of our country, and to prevent a like transaction, or to send a gentleman whose intelligence and integrity will restrain him from attempting any violation of the rights or territory of any sovereign State of this Union:

Therefore,

Resolved, That the before described agreement be rejected by the Senate.

Mr. Baldwin submitted a resolution, which having been considered, by unanimous consent was, on motion by Mr. Dickenson, amended and agreed to as follows:

Resolved, That the President be requested to communicate to the Senate, in confidence, the entire correspondence between Mr. Trist and the Mexican Commissioners, from the time of his arrival in Mexico, until the time of the negotiation of the treaty submitted to the Senate; and, also, the entire correspondence between Mr. Trist and the Secretary of State, in relation to his negotiations with the Mexican Commissioners; also, all correspondence between General Scott and the Government, and between General Scott and Mr. Trist, since the arrival of Mr. Trist in Mexico, which may be in possession of the government.

Ordered, That the Secretary lay the said resolution before the President of the United States.

Tuesday, February 29, 1848.

The following message was received from the President of the United States, by Mr. Walker, his Secretary:

(CONFIDENTIAL.)

To the Senate of the United States :

In compliance with the resolution of the Senate, passed in "executive session" on yesterday, requesting the President "to communicate to the Senate, *in confidence*, the entire correspondence between Mr. Trist and the Mexican Commissioners, also, all correspondence between General Scott and the Government, and between General Scott and Mr. Trist, since the arrival of Mr. Trist in Mexico, which may be in possession of the Government—I transmit, herewith, the correspondence called for: these documents are very voluminous, and presuming that the Senate desired them in reference to early action on the treaty with Mexico, submitted to the consideration of that body by my message of the 22 instant, the originals of several letters of Mr. Trist are herewith communicated, in order to save the time which would necessarily be required to make copies of them. These original letters, it is requested, may be returned when the Senate shall have no further use for them.

The letters of Mr. Trist to the Secretary of State, and especially such of them as bear date subsequent to the receipt by him of his letter of recall as commissioner, it will be perceived, contain much matter that is impertinent, irrelevant, and highly exceptionable. Four of these letters, bearing the date, respectively, the 29th December, 1848, January 12, January 22, and January 25, 1848, have been received since the treaty was submitted to the Senate. In the latter it is stated that the Mexican Commissioners who signed the treaty, derived "their full powers bearing date on 30th December, 1847, from the President *ad interim* of the Republic (General Anaya) constitutionally elected to that office in November, by the sovereign constituent Congress" of Mexico. It is impossible that I can approve the conduct of *Mr. Trist* in disobeying the positive orders of his government, contained in the letter recalling him, or do otherwise than condemn much of the matter with which he has chosen to encumber his voluminous correspondence. Though all of his acts since his recall might have been disavowed by his government, yet *Mexico* can take no such exception. The treaty which the Mexican Commissioners have negotiated with him, with a full knowledge on their part that he had been recalled from his mission, is binding on Mexico.

Looking at the actual condition of Mexico, and believing that, if the present treaty be rejected, the war will probably be continued, at great expense of life and treasure, for an indefinite period; and considering that the terms, with the exceptions mentioned in my message of the 22d instant, conformed substantially, so far as relates to the main question of boundary, to those authorized by me in April last, I considered it to be my solemn duty to the country, uninfluenced by the exceptionable conduct of Mr. Trist, to submit the treaty to the Senate, with a recommendation that it be ratified with the modification suggested.

Nothing contained in the letters received from Mr. Trist since it was submitted to the Senate, has changed my opinion on the subject.

The resolution also calls for all the "correspondence between General Scott and the Government since the arrival of Mr. Trist in Mexico. A portion of that correspondence relating to Mr. Trist and his commission accompanies this communication. The remainder of the "correspondence between General Scott and the government" relates mainly, if not exclusively, to military operations. A part of it was communicated to Congress with my annual message, and the whole of it will be sent to the Senate if it shall be desired by that body.

As coming within the purview of the resolution, I also communicate copies of the letters of the Secretary of War to Major General Butler, in reference to Mr. Trist's remaining at the headquarters of the army in the assumed exercise of his powers of commissioner.

JAMES K. POLK.

WASHINGTON, *February* 29, 1848.

The message was read.

On motion by Mr. Houston,

Ordered, That the message and documents communicated therewith be printed in confidence for the use of the Senate.

The Senate proceeded to consider the resolution submitted by Mr. Webster the 28th instant; and after debate,

On motion of Mr. Johnson, of Maryland,

The Senate adjourned.

Letter from Messrs. Sevier and Clifford to Mr. Buchanan, May 30, 1848, and papers annexed in same document, pp. 75-79.

(Messrs. Sevier and Clifford to Mr. Buchanan.)

QUERETARO, *May* 30, 1848.

SIR: In our last we had the honor to inform you of our arrival in this city on the twenty-fifth instant. On the following day, at 12 o'clock meridian, in pursuance of a previous arrangement, Mr. Clifford was presented to his excellency the president of the republic by Mr. Rosa, the secretary of foreign relations, in the presence of the cabinet and a large number of the civil and military officers of the government, and placed our credentials in the hands of the president. Mr. Sevier was prevented by indisposition from being present on the occasion. We enclose a copy of our address to the president, and also a copy of his reply. Several conferences afterwards took place between Messrs. Rosa, Cuevas, Couto, and ourselves, which it is not thought necessary to recapitulate, as we enclose a copy of the protocol, which contains the substance of the conversations. We have now the satisfaction to announce that the exchange of ratifications was effected to-day. Some delay occurred after the conferences in the preparation of the Mexican copy. The work was finally accomplished within the last hour, when the exchange of ratifications was duly made by Mr. Rosa on behalf of the government, and ourselves on the part of the United States. Having completed our duties here, we shall return immediately to the city of Mexico, for the purpose of paying over the

three millions, according to the stipulations of the treaty. It is expected that the Mexican government will appoint a commissioner to repair to the city in company with us to receive the payment. No circumstances are foreseen by us to render it necessary to use the papers furnished from the Treasury Department in regard to the remaining twelve millions. In one of our conferences Mr. Rosa urged, with much force, the dangers of disorder in the city of Mexico, in case our army should retire before the Mexican authorities had taken the necessary precautions, and also expressed some fear that their authorities might be interfered with by our army, should they find it necessary to arrest and try certain individuals who, it is said, are plotting the overthrow of the government; and to quiet these apprehensions, as far as possible, we addressed a communication to General Butler, of which the enclosed is a copy. We also transmit a copy of a letter from Commodore Jones, with the enclosures, and a copy of our reply; also a copy of a letter from Major General Butler to us, with the enclosure, and a copy of our communication to Colonel Mason, in compliance with General Butler's request; also a copy of our despatch to Commodore Perry, commander of the Gulf squadron.

We have, &c.,

A. H. SEVIER.
N. CLIFFORD.

Hon. JAMES BUCHANAN,
Secretary of State.

Address of the Commissioners of the United States to the President of the Mexican republic, on delivering their credentials.

SIR: We have come to present to your excellency our credentials as commissioners of the United States, for the exchange of ratifications of the treaty signed at Guadalupe Hidalgo, with the amendments made to it by the Senate at Washington. The treaty so amended, having been approved by the congress of Mexico, an exchange of ratifications is all that now remains for the complete re-establishment of peace between the two countries. Sincerely do we rejoice at this happy result; and to have been in any way instrumental in bringing it about, will always be to us a source of the most gratifying recollection. Your excellency may be assured that the best wishes of the United States are for the prosperity of Mexico, and that in the prosperity of Mexico they feel that their best interests are also deeply involved. Sister republics, may the two countries ever maintain the most friendly relations in all their intercourse. May their free institutions so prosper in each, by mutual encouragement and assistance, as to conduct both to the summit of greatness, of which the cornerstones are intelligence, education, virtue, and enable them from their elevation to shed a beacon-light upon the path of popular development, in which the nations of the civilized world are now so generally struggling onward with renovated vigor and illimitable hope.

With these heartfelt wishes we beg leave to place our credentials in your excellency's hands.

(Translation.)

Reply of the President.

I have, with the utmost satisfaction, received from your excellency's hands the credentials which you have been pleased to present to me for the exchange of the ratifications of the treaty, signed at the city of Guadalupe Hidalgo, with the ratifications made at Washington by the Senate, which treaty has just obtained the approval of the Mexican congress. I give to your excellencies my particular thanks for the sentiments of amity and good will which you are pleased to express to me towards the Mexican republic. In its name I assure your excellencies that its sentiments correspond in all respects with those on your own part, and that, as the head of this republic, I desire nothing more ardently than that our treaty may be the immutable base of that constant harmony and good understanding which should prevail with sincerity between the two republics, for the advancement of their happiness, their greatness, and their respectability in the universal society of nations.

PROTOCOL.

English: In the city of Queretaro, on the twenty-sixth of the month of May, eighteen hundred and forty-eight, at a conference between their excellencies Nathan Clifford and Ambrose H. Sevier, commissioners of the United States of America, with full powers from their government to make to the Mexican republic suitable explanations in regard to the amendment which the Senate and government of the United States have made to the treaty of peace, friendship, limits, and definite settlement between the two republics, signed in the city of Guadalupe Hidalgo, on the second day of February of the present year, and his excellency Don Luis de la Rosa, secretary of foreign affairs of the republic of Mexico, it was agreed, after adequate conversation respecting the changes alluded to, to record in the present protocol the following explanations, which their aforesaid excellencies the commissioners gave in the name of their government, and in fulfilment of the commission conferred upon them near the Mexican republic.

1st. The American government, by suppressing the IXth article of the treaty of Guadalupe, and substituting the article III of the treaty of Louisiana, did not intend to diminish in any way what was agreed upon by the aforesaid article IX in favor of the inhabitants of the territories ceded by Mexico. Its understanding is, that all that agreement is contained in the 3d article of the treaty of Louisiana. In consequence, all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories if the IXth article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted.

2d. The American government, by suppressing the Xth article of the treaty of Guadalupe, did not in any way intend to annul the

grants of land made by Mexico in the ceded territories. These grants, notwithstanding the suppression of the article of the treaty, preserve the legal value which they may possess; and the grantees may cause their legitimate titles to be acknowledged before the American tribunals.

Conformably to the law of the United States, legitimate titles to every description of property, personal and real, existing in the ceded territories, are those which were legitimate titles under the Mexican law in California and New Mexico up to the 13th, 1846, and in Texas up to the 2d of March, 1836.

3d. The government of the United States, by suppressing the concluding paragraphs of article XIIth of the treaty, did not intend to deprive the Mexican republic of the free and unrestrained faculty of ceding, conveying, or transferring at any time (as it may judge best) the sum of the twelve millions of dollars, which the same government of the United States is to deliver in the places designated by the amended article.

And these explanations having been accepted by the minister of foreign affairs of the Mexican republic, he declared, in the name of his government, that with the understanding conveyed by them, the said government would proceed to ratify the treaty of Guadalupe as modified by the Senate and government of the United States. In testimony of which their excellencies, the aforesaid commissioners and the minister, have signed and sealed in quintuplicate the present protocol.

A. H. SEVIER. [L. S.]
NATHAN CLIFFORD. [L. S.]
LUIS DE LA ROSA. [L. S.]

Translation of the ratification by the Mexican Executive of the treaty of Guadalupe Hidalgo as amended by the Senate of the United States.

MANUEL DE LA PENA Y PENA, President *ad interim* of the United Mexican States,

To all who shall see these presents :

Know ye that, on the second day of February, in the present year, there was concluded in the city of Guadalupe Hidalgo a treaty of peace, friendship, limits, and settlement between the United Mexican States and the United States of America, by means of plenipotentiaries of both governments, duly authorized by each for this purpose, which treaty and its additional article are in form and tenor as follows :

[Here follows a copy of the original treaty and additional article.]

And this treaty, on the tenth of March, in this year, received in the United States of America the following modifications :

[Here follows a copy of the amendments adopted by the Senate of the United States.]

Having seen and examined said treaty, and the modifications made by the Senate of the United States of America, and having given an

account thereof to the General Congress, conformably to the requirement of the 14th paragraph of the 110th article of the Federal Constitution of the United States, that body has thought proper to approve of the said treaty with the modifications thereto in all their parts; and in consequence thereof, exerting the power granted to me by the constitution, I accept, ratify, and confirm the said treaty, with its modifications, and promise, in the name of the Mexican republic, to fulfil and observe it, and to cause it to be fulfilled and observed.

Given in the federal palace of the city of Santiago de Queretaro, signed with my hand, attested with the great seal of the nation, and countersigned by the Secretary of State in the department of interior and exterior relations, the thirtieth day of the month of May, in the year of our Lord one thousand eight hundred and forty-eight, and of the independence of the republic the twenty-eighth.

LUIS DE LA ROSA.

[SEAL.]

MANUEL DE LA PENA Y PENA,

Secretary of State and of Relations.

36.

Answer of Jacob Mussina to interrogatory 1, as marked, to interrogatory 2, as marked, to interrogatory 5.

This respondent is unable at this time to give more in detail, for the reasons that he has not the papers and documents in his possession to enable him to do so. He expects soon to have the means in his possession of fully supplying these omissions, and he craves leave to amend his answer in these particulars at the earliest practicable time in his power. This respondent further admits and states that he, in conjunction with the said Stillman and Belden, do * * * claim to own the east bank of the Rio Grande river nearly opposite the city of Matamoras, the tract of land on which the town of Brownsville is laid out and situated, under and by virtue of the said grants above mentioned issued by the Ayuntamiento of Matamoras to the persons who have conveyed their right, title, and interest to and in the same to the respondent and his co-partners.

To interrogatory 5. The respondent answers that he has not procured, or caused to be procured, purchased, surveyed, or located on any of said land in the bill of complainants described, any headright certificates, bounty warrants, or other evidences of title issued or granted by the republic or State of Texas to any person whatever, nor does he lay claim to any of such land by virtue of any such purchase, survey, or location that he and his co-purchasers, the said Stillman and Belden, have purchased from other persons, their right, title, and interest to certain surveys and locations, including about one league of land on the east side of the Rio Grande nearly opposite the city of Matamoras, and covering and embracing as a part thereof the town site of Brownsville, the dates of these certificates and evidences of title, the persons to whom made and given, the surveys thereon, and

the date of purchase and transfer, this respondent cannot particularly set forth, for the reason that he has not the necessary papers and documents for that purpose in his possession. As soon as he can procure them he craves leave to amend this his answer, and to set forth and describe them fully in such amendments. This respondent and his said co-purchasers claim * * * all said land covered in and by said surveys and locations by virtue of the same, in addition to the titles derived from the grants of the Ayuntamiento of Matamoras referred to in his answer to the first interrogatory.

To interrogatory 5. This respondent answers that he has made such use of the public officers of the State as the law allowed to record his titles and evidences thereof and no other use, as will fully appear from a reference to said offices and records to which complainants have alluded in their said bill.

37.

Answer of Samuel A. Belden and Charles Stillman

to interrogatory 1st, and amendment 6th and 4th; to interrogatory 2d, and amendment 8th and 1st, as noted; to interrogatory 3d; to interrogatory 5th.

[Interrogatory 1.]

As to interrogatory No. 1, in complainant's bill contained, respondent answers and says: That it is not true that this respondent, and, so far as he is informed and believes, any of his associates parties defendants to this bill have obtained any grants of land direct from the Ayuntamiento of Matamoras, but true it is that this respondent, acting with his associates, have purchased, procured, and obtained from other persons divers tracts of land, including the town site of the town of Brownsville, the authenticated grants and title papers to which this affiant, with the utmost diligence by him used, has not been able to procure in proper form, as the official records wherein the same were archived were sealed up and closed in the commencement of the late war between Mexico and the United States, and have not since been opened, and for this reason this defendant is unable at this time to answer further and more fully this interrogatory, further than to assert and claim a title to portions of said tract of land under such grants or claims.

[6th Amendment.]

Amendment of respondent, Samuel A. Belden, to the first interrogatory of complainants, to be inserted on the tenth page of said respondent's answer, and immediately after the word "claims" on the 29th line of said page. And for further answer to the interrogatory

numbered 1 in complainant's bill of complaint, this respondent says that he and his associates claim all of the tract of land on which the town site of the town of Brownsville stands and is situated as their own, and that their title to the same having been derived from and through the city of Matamoras and its authority, and through and from those claiming under said city of Matamoras and its authority, is more fully contained and set forth in the *fourth* amendment of this respondent's answer to the said bill of complaint herewith filed, which said amendment, and all thereof, is hereby referred to and made part of this respondent's answer to this first interrogatory, together with the exhibits, transfers, and conveyances filed herewith, and marked and numbered as follows :

[4th Amendment.]

On the seventh page of said answer, and in the eighth line of said page, and immediately after the words "among others to" on the said eighth line, insert the following words, that is to say : To Manuel Vela, one labor, on the 25th day of May, 1839, who transferred said labor to Charles Stillman, one of the respondents, on the 6th day of December, 1848 ; also to Agapeta Vela, one other labor of the said land, on the day of , 18 , and which said labor of land was transferred and conveyed to said Charles Stillman on the 6th day of December, 1848 ; also that one Santos Yebario had and occupied as his own another labor of land prior to November, 1834, and which was by said Santos transferred and conveyed to Encarnacion Treviño in ————, and was conveyed and transferred by said Treviño to Dorotero Zamosa in 1843, and which said transfer and conveyance was confirmed and ratified by deed, dated 10th day of January, 1849, and which said labor was transferred and conveyed from Zamosa to Charles Stillman aforesaid, on the 6th day of December, 1848, by deed of that date ; also one other labor of land was, on the — day of ———, 18—, to Juan Treanor, granted, transferred, and conveyed, and was surrendered by said Juan Treanor on the 24th of August, 1842, to Antonio Longoria as Syndic, together with other property of said Treanor, for the purpose of being held by said Syndic for the benefit of the creditors of said Treanor, and in pursuance of said surrender, and by virtue of his powers as syndic as aforesaid, the said Antonio Longoria, on the 15th day of December, A. D. 1848, before Joaquin Arguelles, and his assisting witnesses, a notary public in and for the city of Matamoras, in the Republic of Mexico, executed a transfer or act of sale of said last named tract of land, to Jacob Mussina, for a good and valuable consideration, which said tract contained and contains about 170 acres. This labor was purchased as aforesaid, and herein before stated, at said sale, and paid for by this respondent and Charles Stillman, also defendants herein ; but that without the knowledge of this respondent, or the knowledge of the said Charles Stillman, the deed was taken by Simon Mussina to Jacob Mussina ; also one other labor of land was granted on the 6th day of June, 1840, to Manuel Treviño, alias Canales, and was transferred by said Treviño to this respondent, Charles Stillman and Jacob

Mussina, by deed bearing date 30th of January, 1849 ; also one other labor of land heretofore known as the property of Catarina Vela, granted by said Ayuntamiento, of Matamoras, to ———, about the — day of ———, 18—, and surrendered by said Catarina to Walter Henry, as Syndic of said Catarina, for the benefit of the creditors of said Catarina, about the 27th day of May, 1845, and was, by said Syndic Walter Henry, sold, transferred, and conveyed to Manuel Trevino on the 9th day of June, 1846, and was conveyed and transferred by said Manuel Trevino to this respondent, Charles Stillman and Jacob Mussina, on the 30th day of January, 1849 ; and respondent further says that the said tract or labor of land last named was duly conveyed by said Catarina Vela and others on the 20th day of December, 1848, to said respondent Stillman ; also one other grant was made from the said Ayuntamiento, of the city of Matamoras, and, by authority of said city, to Onofre Rebalcaba, on the — day of ———, 18—, of another labor of land, which said labor was duly transferred and conveyed by said Rebalcaba to Manuel Trevino Canales, on the 15th day of December, 1848, and was also conveyed by Andres Peneda to the said Trevino on the — day of ———, 1845, and by said Trevino to this respondent, and the said Charles Stillman and Jacob Mussina, was conveyed on the 30th of January, 1849 ; also another labor and tract of land was granted by said city and its authorities to Manuel Vela on the 19th day of February, 1842, and was by said Vela transferred to Manuel Trevino on the 6th day of December, 1848, and was by said Trevino transferred and conveyed to this respondent, the said Charles Stillman and Jacob Mussina, on the 30th of January, 1849 ; also another labor and tract of land was granted by said city and authority to Manuel Vela on the — day of ———, 18—, and was by said Trevino transferred and conveyed to this respondent, the said Charles Stillman and Jacob Mussina, on the 30th day of January, 1849 ; also one other grant by said city of Matamoras and its authority, of one other labor or tract of land, on the 6th day of June, 1840, to Ignacio Flores, and was transferred and conveyed by said Flores, on the 22d day of January, 1845, to Ledora Molino, and was transferred and conveyed by said Molino, on the 30th day of January, 1849, to Manuel Trevino, and, on the day last aforesaid, was duly transferred and conveyed by said Trevino to this respondent, the said Charles Stillman and Jacob Mussina ; also another grant of one other labor or tract of land was made by said city of Matamoras and its authority, on the — day of ———, 18—, to Francisco Fregosa, and was, by said Fregosa, transferred and conveyed, *by said Fregosa*, to this respondent, Charles Stillman and Jacob Mussina, on the 30th day of January, 1849 ; also one other grant of one other labor or tract of land was made by said city and its authority, on the 12th day of April, 1834, to Jose Aazario Garza, and was transferred and conveyed by said Garza to O. F. Janes, on the 5th day of July, 1848, and was transferred and conveyed by said Janes to this respondent, and the said Charles Stillman and Jacob Mussina, on ——— day of May, 1849, and the said Garza, by deed dated on the 23d day of May, 1849, confirmed said conveyance and transfer to said Jaynes ; also one other grant of one other labor and tract of land was granted by said

city of Matamoras and its authority, on the 19th day of April, 1834, to Maximo Siena, and was transferred and conveyed by said Siena to Catarina Vela, on the 23d day of January, 1837, and was by said Vela to Juan Galan, on the 17th day of June, 1848, and was by said Galan transferred and conveyed on the — day of May, 1849, to this respondent, and to said Charles Stillman and said Jacob Mussina, by said Janes; also one other grant of one other labor and tract of land was, on the 19th day of July, 1842, by said city of Matamoras and authority, granted to Antonio Salinas, and was conveyed and transferred by said Salinas on the 22d day of September, 1846, to Francisco Garcia Trevino, and was by said Trevino, on the 1st day of December, 1849, transferred and conveyed to the respondent, Charles Stillman; also one other grant of one other labor and tract of land was, by said city of Matamoras and its authority, made to Vincente Valerio, on or about the 20th day of January, 1844, and was by said Vincente transferred and conveyed to Francisco Garcia Trevino, on the 22d day of September, 1846, and was by said Trevino conveyed and transferred, on the first day of December, 1849, to said respondent, Charles Stillman; and respondent further says that said Charles Stillman is the owner of one other tract and labor of land in his own exclusive right, which said tract and labor of land was purchased and acquired by said Charles Stillman of Miguel Salinas, by deed dated 6th day of December, 1848, as will more fully appear by the exhibit herewith filed and made part of this amended answer, marked No. 9.*

[Interrogatory 2.]

As to interrogatory No. 2, respondent answers and says, that this defendant has not procured, or caused to be procured, certain, nor any headright certificates, bounty warrants, land scrip, or other evidences of title to land issued under the authority of the republic or State of Texas, and have not located or caused to be located, surveyed or caused to be surveyed, the said evidences of title to land upon any portions of the tract in said bill of complaint described; but it is true that this defendant, with others, have purchased and procured from David Snively, by regular transfer and conveyance, about one league of land, embracing the town of Brownsville, located and surveyed by the surveyor of Cameron county, in the year 184 , for David Snively, under headrights issued by bounded and described as in said surveys, all of which will more fully appear by reference to a certified copy of said locations, field notes, and surveys, marked Exhibit No. 1, and made a part of this answer.

[8th amendment.]

On the 11th page of said answer, and seventeenth line of said page, immediately after the word "by," in said line, insert the following words, that is to say: The republic of Texas and State of Texas, and under the lawful authority thereof, which said headrights, locations, and surveys, are more fully described by reference to the first amendment made by this defendant to his answer herein inserted on the third page of said original answer of this respondent, which said amend-

* See page 459.

ment is referred to and made a portion of the answer to this interrogatory, together with said exhibits therein referred to, and in said first amendment described as *exhibits*; and said respondent further says, that said respondent, Charles Stillman, did procure the certificates, bounty warrants, and land scrip, issued under the authority of the republic or State of Texas, and did locate and cause to be located the same upon said land, and did cause the same to be surveyed in the same manner as said locations and surveys thereon are set forth and described in said first amendment of this respondent to his original answer herein.

[1st amendment.]

First: The said Belden, defendant, amends his answer on the third (3) page thereof, and immediately after the word "located," by striking out all on said third page after the word located, on the seventeenth line of said page, and inserting the following words: "On the eighth day of January, A. D. 1847, for David Snively, under and by virtue of a headright certificate granted to Henry Hudson for twenty-six labors of land, said location to begin two hundred varas below "Fort Brown," on the east bank of the Rio Grande, thence to run up said river for legal front and back for quantity; also, six hundred and forty acres donation *HH*, to begin at the upper corner of the location made for Henry Hudson, to run up the Rio Grande and back for quantity; and afterwards, to wit, on the (17) seventeenth day of August, A. D. 1847, the said David Snively directed the surveyor of the land district of Nueces and San Patricio, said land district then embracing all the land in controversy in this suit, to apply a league and labor granted to James Taylor upon the location in place of Henry Hudson's certificate for twenty-six labors above described, the said David Snively then and there substituting the said certificate granted to James Taylor under the authority of the republic of Texas, in the place and stead of the certificate of said Hudson, as he, said Snively, lawfully had a right to do; and also on the 20th day of March, 1847, the said David Snively made the following locations: *First*. One of three hundred and twenty acres of land, under a good and valid land warrant issued to James St. John, said location commencing one hundred yards below Fort Brown, on the Rio Grande, running down the river for front and back for quantity. *Second*. One other good and valid land warrant for other three hundred and twenty acres of land, issued to James St. John, beginning at the lower line of the survey and location last above named, and running down the river front and back for quantity. Also, the said David Snively did, on the day and year last aforesaid, make one other location, under certificate No. to begin at James St. John's lower corner of the location last aforesaid on the Rio Grande, running down said river for front and back for quantity. And also the said David Snively, on the day and year last aforesaid, made a location for and of three hundred and twenty acres of land under a good and valid certificate issued to James Fox, beginning at the lower corner of location made for J. Black by virtue of certificate No.

on the Rio Grande, running down the river for front and back for quantity; and on the 25th day of April, A. D. 1848, the said David Snively made the following other locations: One under certificate No. 111, issued to J. W. B. McFarland, issued by the board of land commissioners for the county of Victoria; one league of land, to begin at the lower corner of a survey made for J. Baxter, opposite Matamoros, on the Rio Gande, to run down said river for front and back for quantity; also, another location of and for three hundred and twenty acres of land to begin at the lower of a location made for and under the location, made by virtue of said certificate above described to J. W. B. McFarlane on certificate No. 111, to run down said river for front and back for quantity; also, another location for six hundred and forty acres of land under and by virtue of donation warrant No. 1140, to begin at David Snively's lower corner, to run down said Rio Grande for front and back for quantity; also, another location under land warrant valid in law for nine hundred and sixty acres of land, issued to J. W. B. McFarlane, to begin at the lower corner of location under certificate No. 1140, to run down said Rio Grande for front and back for quantity; also, another location of six hundred and forty acres under certificate No. 1147, issued to J. Curling, to begin at the lower corner of No. 310, a location made for J. W. B. McFarlane, to run down said Rio Grande for front and back for quantity: all of which said certificates and locations made as aforesaid under them, and all rights arising under and by virtue of said certificates and locations to said lands so located were duly, legally, and validly assigned, by the rightful holder and owners thereof, to Charles Stillman, one of the defendants in this case, to the extent of one league and one labor of land, embracing the present site of the town of Brownsville. And afterwards, to wit, on the 7th day of November, A. D. 1848, for greater security and certainty in securing the just rights of said defendant, Charles Stillman, he, the said Charles, located and caused to be located the following described certificates, a copy of which said locations was, and is, in the words, terms, and figures following: "Charles Stillman makes application for the following certificates and land warrants to be located on the Rio Grande, in the county of Cameron: certificate No. 36, for 1280 acres of land, issued to Estevan Villareal by the board of land commissioners of the county of Nueces, to begin at the lower corner of location made by David Snively, on the left bank of the Rio Grande, on certificate No. 39, for three hundred and twenty acres issued by the board of land commissioners for the county of Nueces, to run down for front and back for quantity according to law; also, certificate No. 18, for 640 acres, issued by Sabas Medrano by the board of land commissioners of the county of Nueces, to begin at the lower corner of certificate No. 36, for 1280 acres, to run down for front and back for quantity according to law; also, balance of land warrant No. $\frac{5}{6} \frac{3}{2}$, issued to Jacob Snively by the commissioners of the general land office, for nine hundred and sixty acres, on the fourth of April, 1847, to begin at the lower corner of No. 36, to run down for front and back for quantity according to law. Corpus Christi, November 7, 1848: signed, Charles Stillman." And the said defendant, Samuel

A. Belden, further says, that, on the sixth day of November, A. D. 1849, the survey was made for the said defendant, Charles Stillman, who was the assignee of David Snively, who was the assignee of J. W. B. McFarlane under headright certificate No. 111, which said survey is set forth more at length and with greater certainty and particularity in and by a certain paper exhibit filed in this cause, marked *F*, and is now filed with and made a part of the testimony of Felix A. Blucher in this cause; and that, on the 8th day of November, A. D. 1848, another survey was made by the said Charles Stillman, assignee of David Snively, assignee of certificate No. 39, issued by the board of land commissioners of Nueces county on the 3d day of January, A. D. 1848, and which, for greater certainty, exhibit *G*, attached to exhibit *F*, is referred to; and that, on the 1st day of December, A. D. 1848, another survey was made for the said Charles Stillman, assignee of J. Snively, for 960 acres of land under land warrant issued by the commissioners of the general land office of the State of Texas, on the sixth day of April, 1847; and that, on the 22d day of Nov., 1848, another survey was made for the said Charles Stillman, who was assignee of David Snively, who was assignee of Sabas Medrano, of 640 acres of land under certificate No. 18, issued by the board of land commissioners for the county of Nueces, on the 10th of Jan'y, A. D. 1848, which said survey is set forth at length and with greater certainty and particularity in and by a certain paper exhibit filed in this cause, marked *H*, and is now filed with and made a part of the testimony of Felix A. Blucher in this cause; and that, on the 27th day of November, A. D. 1848, another survey was made for the said Charles Stillman, was the assignee of David Snively, who was the assignee of Estevan Villareal for 1280 acres of land under and by virtue of certificate No. 36, issued by the board of land commissioners for the county of Nueces, on the 31st of January, 1848, which said survey is set forth more at length and with greater certainty and particularity in and by a certain paper exhibit filed in this cause, marked "copy," and attached to the last named preceding exhibit, and now filed with and made a part of the testimony of Felix A. Blucher in this cause. And afterwards, on or about the 15th day of August, A. D. 1848, the said Charles Stillman was the holder, owner, transferee, and legal assignee of the following named and described certificates: *First*. The certificate to John Chubb, No. 398, 4th 4th class, issued by the board of land commissioners of the county of Galveston, for 320 acres of land. *Second*. The certificate to Francisco Guzman for 640 acres of land, issued by the board of land commissioners of Bexar county, and numbered 458, 2d class. *Third*. The certificate to Michael Judd for 640 acres of land, issued by the board of land commissioners of Galveston county, numbered 251, 2d class. *Fourth*. The certificate to Juan Rodriguez Monte Mayor for 640 acres of land, and numbered 388, 2d class, and issued by the board of land commissioners of the county of Bexar. The certificate to Antonio for 320 acres, issued by the board of land commissioners of the county of Bexar, and numbered 295, 4th class. *Sixth*. The certificate to Francis Bartolomis for 640 acres of land, issued by the board of land commissioners for the

county of Galveston, and numbered 136, 4th class. *Seventh.* The certificate to John B. Fox for one-third of a league of land, numbered 846, and issued by the board of land commissioners of the county of Harris, 2d class. *8th.* The certificate of Henry H. Wheeler for 640 acres of land, issued by the board of land commissioners of the county of Montgomery, numbered 79, 4th class. *9th.* The certificate issued to Henry H. Wheeler by the board of land commissioners of the county of Grimes, and numbered 15, 4th class. And that the said Charles Stillman did, for the greater security of his rights, on the said 15th day of August, A. D. 1848, cause all and each of the last named nine certificates to be located upon the league of land embracing the whole and entire site of the town of Brownsville, which locations will appear more at length and with greater certainty by reference to exhibits marked *A* and *B*, and are attached to and are on file with the testimony of Felix A. Blucher in this cause, and also copies of all and each of the above named certificates are attached to said testimony of said Blucher, and are marked *D*, *G*, and *E*, and are referred to as exhibits in this amended answer.

Interrogatory 3d. As to interrogatory No. 3, respondent answers and says, that true it is that he, as one of the defendants, with his associates, claim a right to take possession of and to exercise all the rights and privileges of ownership in full over the land herein described in said defendant's answer to interrogatories Nos. 1 and 2, and that he so claims under and by virtue of as well headright certificates, locations, surveys, and field notes, as heretofore set forth in this defendant's answer to interrogatories Nos. 1 and 2, in said bill of complaint contained, as also by virtue of conveyances from the parties holding title from the ayuntamiento of the city of Matamoras and the State of Tamaulipas, to certain ejidos or tracts of land, but which is out of this defendant's power more fully to describe and particularly set forth at this time, for the reasons that he is unable to have access to the public archives of said city and State, where the aforesaid titles are kept, as heretofore stated.

Interrogatory 5th. As to interrogatory No. 5, respondent answers and says, that he, in conjunction with his associates, have made use of the public offices of the State of Texas, and of the records of the county, for all legal and rightful purposes connected with the interests which in law they had a right to do, and none other.

Answer of Patrick C. Shannon to interrogatory 1st, to "who owned," as marked; to interrogatory 2d; to interrogatory 5th.

Interrogatory 1. And this defendant, now answering according to the best of his knowledge, remembrance, information, and belief, the several and respective interrogatories in complainants' bill set forth, says, that it is not true that he has obtained from the ayuntamiento of Matamoras any grant or claim to any portion of the tract of land described in the bill, nor does he believe any of the other defendants have obtained any such grant or claim; if any one of them have, this defendant is ignorant of the same. This defendant admits that he has purchased a tract of land containing about fifty-two or fifty-three

acres, situated on the eastern bank of the Rio Grande (alias Rio Bravo del Norte,) opposite to Fort Parades and the city of Matamoras, on which the town of Freeport now stands; said labor or tract of land was conceded and granted by the ayuntamiento of the city of Matamoras to Nicolas Cavazos, sometimes called Nicolas José Cavazos, in fee simple, in the usual form of such titles.

Interrogatory 2. And this defendant, further answering, saith, in answer to the second interrogatory of complainants, that it is true that the defendant has purchased and procured, in his own right, two headright certificates, issued under the authority of the republic and State of Texas, which he has caused to be located on portions of the land described in complainants' bill. One of these certificates was issued to Teatoria Samora by the board of land commissioners for Nueces county, on the 19th day of January, A. D. 1848, number 34, for three hundred and twenty acres of land, and was by said Samora sold and transferred by deed, dated the 20th day of January, A. D. 1848, to Frederick Belden, of the county of Nueces, who, by his attorney in fact, Rice Garland, sold and transferred said certificate, with all the rights and privileges thereunto appertaining, to this defendant, as will appear by deed duly recorded in the office of the county clerk of Cameron county. The aforesaid certificate of headright, together with the aforesaid deed from Samora to Frederick Belden, are now on file in the office of the surveyor for the district of San Patricio, at Corpus Christi, together with the application of this defendant to said surveyor to locate said certificate, which application was made on or about the 25th day of the month of April, A. D. 1848, and is of record in said office. A survey was made, in compliance with the said location, on the day of , A. D. 1848, but the field notes thereof have not as yet, according to this defendant's knowledge and belief, been returned to the office of the district surveyor. The location claims to have this certificate so surveyed as to cover all of the land spoken of in this defendant's answer to the first interrogatory, and as much adjoining as will make the quantity of three hundred and twenty acres. This defendant cannot, without the field notes of the survey, specify the courses and distances accurately, but the portion of land it covers is on the eastern bank of the Rio Grande, in the county of Cameron, opposite the city of Matamoras, and the survey includes the whole of the town of Freeport, and a portion of the town of Brownsville, and the land between the two places, all of which will more fully and at large appear by reference to the aforesaid certificate to Samora, the conveyance made by him to Frederick Belden, the power of attorney from said Belden to Rice Garland, the location made of the aforesaid claim in the surveyor's office at Corpus Christi, and the field notes of the surveys when returned, all of which, with leave of the court, will hereafter be filed, marked exhibits. The other certificate of headright purchased by this defendant was granted to Cunningham, by the Board of Land Commissioners, in and for the County of Galveston, is dated the day of the month of in the year , for the quantity of three hundred and twenty acres, and was sold and transferred to this defendant, by said Cunningham, by his agent and attorney in

fact, Rice Garland, by deed dated on the day of the month of , A. D. , which is of record in the office of the Clerk of the County Court of Cameron, Texas. This defendant made application to the surveyor of the district of San Patricio, on the day of the month of A. D., to locate this certificate on the eastern bank of the Rio Grande, in the then County of Nueces, now County of Cameron, State of Texas, about miles below Fort Brown, to have such front on the river as allowed by law, and to run back for the quantity of three hundred and twenty acres. The land was surveyed by George Lyon, a Deputy Surveyor for the District of San Patricio, on the day of the month of A. D., and the field notes of the survey returned to and approved by Jacob Snively, Surveyor of the District of San Patricio, in the State of Texas; all of which will more fully and at large appear by reference to the aforesaid certificate to said Cunningham, his power of attorney to the aforesaid Rice Garland, and the deed executed to this defendant, with the certificates of recording on said documents, the location and field notes of survey mentioned herein, all of which will, with leave of the Court, be hereafter filed and marked Exhibits . This defendant further saith, that on the eighth day of the month of April, in the year 1847, he and one Salisbury Haley, now believed to reside in California, purchased, by a deed of record in the office of the county Clerk of Cameron County, as will appear, from William Ayres, the certificate No. 224, granted by the Board of Land Commissioners, of Brazoria County, Texas, a headright, in the name of Felix C. Calomet, dated on the first day of February, A. D. 1838, for one-third of a league of land, equal to fourteen hundred and seventy-six acres. Said William Ayres had purchased said certificate previously of said Calamet. This certificate belongs to this defendant and the aforesaid Salisbury Haley, jointly, each owning an undivided half. On the day of the month of , A. D. the said Haley and this defendant made application to the Surveyor of the district of San Patricio, to locate the quantity of land named in two tracts, one to front on the Rio Grande, on the eastern bank, to contain the quantity of seven hundred and thirty-eight acres, with such front as the law allowed, and to run back for quantity; to adjoin on the upper side a location and survey previously made for one J. Baxter, and to be situated about two and a half miles above Fort Brown; said location and survey was made on the day of , in the year , by George Lyon, a legally authorized Deputy Surveyor for the District of San Patricio, and the field notes of the survey returned to the office in Corpus Christi. The remainder of the land specified in the aforesaid certificate, No. 224, the aforesaid Salisbury Haley and this defendant have located and surveyed in the manner directed by law, by the aforesaid George Lyon, Deputy Surveyor, acting under the orders of Jacob Snively, Surveyor of the District of San Patricio, with the front allowed by law, and the depth as would make the quantity specified, on the Rio Grande or Rio Bravo del Norte, about fifteen miles below Fort Brown, adjoining to a survey made for Newcomb. All of which will more fully and at large appear by reference to the aforesaid certificate No. 224, and the conveyances and deeds by which the said defendants

and Haley acquired all the rights of Felix C. Catonnet, with the certificates of recording, and the aforesaid locations and survey with certificates of recording, all of which, with leave of the Court, will hereafter be filed and made Exhibits. This defendant saith that, by virtue of the aforesaid described titles, and that set forth in his answer to the first interrogatory, he does not set up title and claim to the parcels and tracts of land herein set forth and described, and the same are situated within the limits prescribed in the bill of complainants. This defendant has no knowledge of his co-defendant, Richard Fitzpatrick, ever having purchased any headright certificates, bounty warrants, or treasury scrip, under and by virtue of which he sets up any title, or color of title, to any portion of the land described in the bill. This defendant has no information of his own which can enable him to state under what titles and claims his co-defendants, Stillman, Belden, and Mussina, set up claim to portions of the land described in the bill of complaint, and cannot answer this interrogatory further.

Interrogatory 5. This defendant, further answering, says, in answer to the fifth interrogatory, that it is true he has made such use of the public officers of the State of Texas, and the records of the county of Nueces and Cameron, as were legal and proper for making his claims, grants, and titles notorious and available to himself, and secure his rights.

39.

Copy of the Agreement between Stillman, Belden, and Mussina.

XX.

The within instrument and the certificates thereto were offered in evidence by the complainants at the hearing, and objected to by defendants because the original was not proved, nor this copy in any legal and sufficient manner; objections overruled by the Court and read in evidence by the complainants.

March 21, 1851.

JAMES LOVE, *Clerk.*

STATE OF TEXAS, *County of Cameron.*

Know all men by these presents, that we, Charles Stillman, Samuel A. Belden, and Jacob Mussina, have agreed and contracted, and by these presents do agree and contract each with the other, to hold jointly all labors of land which we or either of us have purchased or may hereafter purchase within what is termed the exidos of the city of Metamoras, situated on the left bank of the Rio Grande, embracing the town tract of Brownsville and the land upon which the United States government improvements now exist, as also all locations and rights under Texas certificates or land scrip situated within the aforesaid exidos, which purchases and joint interest, up to the date of this contract of, consist of Texas scrip and locations purchased by Charles Stillman from David Snively, amounting to four thousand six hun-

dred and seventy-six acres. Three labors purchased by Charles Stillman, Doneteo Zamora, Manuel Vela, and Agapeto Vela; six labors purchased jointly by all the parties to this agreement and contract from Manuel Trevino. The *parties'* labors purchased from Fran'co Frajosa by the same parties, the aforesaid Charles Stillman, Samuel A. Belden, and Jacob Mussina, for and in consideration of the sum of one dollar, each, to the other in hand paid, the receipt whereof have bargained, granted, sold, and conveyed, and by these presents do grant, bargain, sell, and convey each to the other, their heirs, executors, administrators, and assigns, to have and to hold so much of all right, title, and interest by all or either of them now held, or that may hereafter be purchased of labors of land or *locatios* of Texas land certificates or scrip, with the aforesaid exidos, as will make the parties to this agreement and contract hold in the following proportions: Charles Stillman one-half of the entire interest now held or that may hereafter be acquired by either of the parties to this agreement and contract, in the exidos of Matamoras as aforesaid; Samuel A. Belden, one-fourth of the entire interest as aforesaid; Jacob Mussina, one-fourth of the entire interest as aforesaid. And the parties to this agreement and contract do hereby agree and contract each with the other to hold jointly in the above proportions—that is, C. Stillman 2 parts, S. A. Belden 1 part, and Jacob Mussina 1 part of all purchases that we or either of us may *may* make, or of any and all interests in any tract or parcel of land situated within the said termed exidos, on the left bank of the Rio Grande as aforesaid, that we or either of us may acquire. The parties to this agreement and contract do further agree and contract and bind and obligate themselves each to the other, that after all liabilities shall be settled, that all profits arising from the sale of the aforesaid lands or any part thereof shall be divided between the parties to this contract and agreement according to their respective shares as aforesaid; and further, that all expenses and losses that may accrue shall be borne by the said parties according to their respective shares as aforesaid—that is, that the profits, losses, expenses, &c., shall be divided and borne in the proportions as aforesaid—that is, (one) Chas. Stillman one-half, S. A. Belden one-fourth, and J. Mussina one-fourth. It is further agreed and distinctly understood by the parties to this agreement that a certain labor of land purchased by Charles Stillman from Miguel Salinus is excepted from the joint interest as aforesaid, the said labor remaining the sole and undivided property of the said Charles Stillman. It is further agreed that all the purchases, sales, transactions, and accounts connecting or in any wise appertaining to the aforesaid joint interest shall be kept in regular books, which shall always be open to each of the parties to this instrument or their legal representative. And it is further agreed and contracted between the parties to this instrument for themselves, their heirs, executors, administrators, that in case of the death of any one or either of them, that the survivor or survivors is hereby constituted as the agent or agents of the parties deceased, to continue all sales, contracts whatsoever, to sue and be sued at law, and to do whatever he or they may deem necessary or proper to be done for the promotion of the joint interest as afore-

said, he or they, the survivor or survivors, accounting for the same to the legal representative of the party deceased. For the full performance of all and several the agreements and covenants herein contained, we hereby bind ourselves, our heirs, and executors or administrators. In witness whereof, we have hereunto set our hands and affixed our seals (in triplicate) this ninth day of December, one thousand eight hundred and forty-eight, (1848,) at Brownsville. "Their heirs, executors, administrators, or assigns, to have and to hold," interlined before signing. Signed, sealed, and delivered in presence of witnesses,

T. W. SLEMONS.

WM. H. BROWNE.

CHARLES STILLMAN. [SEAL.]

SAMUEL A. BELDEN. [SEAL.]

JACOB MUSSINA, per

SIMON MUSSINA. [SEAL.]

STATE OF TEXAS,

County of Cameron.

Before me, William L. Walradt, clerk pro tem. of the county court in and for the county aforesaid, personally appeared William H. Browne, to me personally and well known, and one of the subscribing witnesses to the foregoing instrument in writing or deed of conveyance, and, after being duly sworn according to law, did depose and say, that he saw the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, by Simon Mussina, respectively sign, seal, and deliver the said instrument of writing, and that he, the said William H. Browne, signed the same as one of the witnesses thereto, at the request of the said Charles Stillman, Samuel A. Belden, and Simon Mussina. To certify which, I hereto sign my name and affix my seal of office this eighth day of March, A. D. 1849.

WM. L. WALRADT,

*Clerk pro tem. of the County Court of
Cameron County, Texas.*

Filed for record May 18, 1849, 8 o'clock p. m. Recorded same day.

J. J. H. GRAMMONT,

Clerk C. Court C. C.

THE STATE OF TEXAS, *County of Cameron.*

I, the undersigned, J. J. H. Grammont, Clerk of the County Court and recorder in and for the county of Cameron, State aforesaid, do hereby certify the foregoing to be a true and correct copy taken from the records of the County Clerk's Office of Cameron County in record book B, pages 122 and 123. Given under my hand and seal of office, at Brownsville, on the eighth day of May, A. D. 1850.

[SEAL.]

J. J. H. GRAMMONT,

Clerk County Court C. County.

CONSULATE OF U. S. A., *Matamoras, Mexico.*

I, Thomas W. Slemons, Consul of the United States of America for the port of Matamoras, do hereby certify that Joaquin Arguelles, who attests the annexed document under his own proper signature, to me, the said Consul, well known, is now, and was at the time of signing the same, a Notary Public in and for the Port of Matamoras, and to his acts as such full faith and credit is given in and out of Judicature. In testimony whereof, I hereunto subscribe my name and affix the seal of my office, at Matamoras, this fifth day of October, 1848.

[SEAL.]

(Signed) THOMAS W. SLEMONS.

Filed for record October 5th, 1848, at 9 o'clock a. m. Recorded 6th October, 1848.

THOMAS J. STANSBURY,
Clerk and Recorder.

THE STATE OF TEXAS, *County of Cameron.*

Clerk's Office of the County Court of said county.

I do hereby certify that I have compared the foregoing copy of a grant, and of the endorsements thereon, with the original records of the same remaining in this office, and that the same are correct transcripts therefrom, and of the whole of said original record in Book A, page 363. In testimony whereof, I have hereunto affixed my name and the seal of my office as Clerk of the County Court of said County, this 10th day of February, A. D. 1849.

[SEAL]

THOMAS J. STANSBURY,
Clerk C. C. C. C.

Fees, copy, and plotting, \$4 00.

THE STATE OF TEXAS, *Nueces County.*

Know all men by these presents, that I, Nicolas José Cabazos, at present in the County of Nueces and State of Texas, for and in consideration of the sum of six hundred dollars, to me paid by Patrick Carrick Shannon, of said county and State, have bargained, sold, and released, and by these presents do grant, bargain, and sell and release unto the said Patrick Carrick Shannon all that piece or parcel of land lying and situated on the left bank of the Rio Grande, opposite to Fort Paredes, and a part of the City of Matamoras, beginning at a stake on the bank of the Rio Grande, being the extension of an old fence, which fence is the line by which said labor is bounded on the north, and divided it from the labor of Don Manuel Cabazos, thence north 20 degrees W. 255 varas with the fence, thence north 8 degrees W. 147 varas to a stake on the bank of the Rio Grande above Freeport, thence down with the meanders of the river south 44 degrees West 290 varas, thence south 30° West 190 varas, thence S. 19° W. 160 varas, thence S. 14° E. 130 varas, thence N. 81° E. 321 varas to Shannon's crossing, thence 85° East 360 varas, thence N. 60° E. to the place of beginning, as will more fully and at large appear by a survey and plat made by George

Lyon, Deputy Surveyor of San Patricio District, hereto annexed and made a part of this deed; said tract or parcel of land contains the superficial quantity of fifty-two acres and seven hundred and eighty-seven square varas, and is the same tract of land which the ayuntamiento of the city of Matamoras granted to the aforesaid Nicolas José Cabazos by the title and documents hereto annexed and made a part of this deed, together with all and singular the rights, numbers, hereditaments, and appurtenances to the same belonging, or in anywise incident or appertaining, to have and to hold all and singular the premises above mentioned unto the said Patrick C. Shannon, his heirs and assigns, forever; and I do hereby bind myself, my heirs, executors, and administrators to warrant and forever defend all and singular the said premises unto the said Patrick Carrick Shannon, his heirs and assigns, against every and any person whatsoever lawfully claiming or to claim the same, or any part thereof.

Witness my hand and seal, this thirteenth day of the month of April, in the year of our Lord one thousand eight hundred and forty-eight.

[SEAL.]

(Signed) NICOLAS JOSÉ CABAZOS.

Signed, sealed, and delivered in presence of, as witnessed—

BARTO'ME GRIMA, as witness and interp'r.

PEDRO L. GRIMA.

STATE OF TEXAS,

County of Cameron.

On this fifth day of October, A. D. one thousand eight hundred and forty-eight, before me, personally came B'me Grima, subscribing witness to the within conveyance, to me known, who, being by me duly sworn, did depose and say that he knows Don Nicolas José Cabazos, the individual described in and who executed the said conveyance, and that he was present and saw the said Nicolas José Cabazos sign, seal, and deliver the same as and for his act and deed, and the said Nicolas José Cabazos the acknowledged the execution thereof, whereupon the said B'me Grima became the subscribing witness.

Given under my hand and scrawl, there being no seal of office.

[L. S.]

(Signed)

THOS. J. STANSBURY,

County Clerk of Cameron County.

Filed for record October 5th, A. D. 1848, at 9 o'clock a. m. Recorded 6th October, A. D. 1848.

THOS. J. STANSBURY, *Recorder.*

THE STATE OF TEXAS,

County of Cameron.

Clerk's Office of the County Court of said county.

I do hereby certify that I have compared the foregoing copy of a deed, and of the endorsement thereon, with the original records of the same remaining in this office, and that the same are correct tran-

scripts therefrom and of the whole of said original records in Book A, on pages 27 and 28.

In testimony whereof, I have hereunto affixed my name and the seal of my office as clerk of the county court of said county, this the 12th day of February, A. D. 1849.

[L. s.]

THOS. J. STANSBURY, *Clerk.*

Offered in evidence by complainants at the hearing (notice having then been given to the counsel for Patrick C. Shannon to produce the original, and the said counsel declined to do so;) objected to by defendants because original not produced or accounted for, nor sufficient notice given to defendants to produce original, and because the same is not sufficiently proved or authenticated. Objections overruled, and read in evidence.

JAMES LOVE, *Clerk.*

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }

CHARLES STILLMAN and others. }

Translation of the title issued by the ayuntamiento of the city of Matamoras to Nicolas José Cavazos.

Original copy of the title of adjudication and grant of a tract of land, a labor, made to D. Nicolas José Cavazos by the illustrious ayuntamiento of this city.

[Petition.]

Very Illustrious Ayuntamiento: I, Nicolas Cavazos, of this vicinity, very respectfully say, that I have possessed for twenty-six years and some months, without interruption, within the exidos of this city, a labor which bounds on the north with D. Manuel Cavazos, on the south and west with the Rio Bravo, and on the east with the lands of D. Nabor Alguin, D. Antonio Hinojosa, and the bank of the said river; and as I only need a title in order to assure my property in all time to come, to the end that this may be granted to me, I supplicate you to be pleased to order that the aforesaid land be surveyed, and adjudged to me for the dues fixed for the ordinance, which I am ready to pay. Matamoras, February twenty-fourth, one thousand eight hundred and forty-seven.

NICOLAS CAVAZOS.

City Hall of Matamoras, February twenty-fifth, one thousand eight hundred and forty-seven.—Let this petition pass to the two Syndic's Procuradors to survey and mark out the land prayed for, should it be

possible, and to report what is proper. AUGUSTIN MANCHACA, on account of the illness of the secretary, Francisco Arguelles.

A. Road which goes to the ranchos outside.

B. 200 varas.

C. 700 varas.

D. 500 varas.

A. B. 200 varas.

B. C. 700 varas.

C. D. 500 varas.

D. A. A curved line which was not measured, passing by the bank of the river.

Ft. Paredes.

(For original plan, see page 1228.)

(over)

[Report.]

The second syndic procurador, drawing up the report which had been ordered from him, says, that having proceeded to the examination of the labor mentioned in the decree of the illustrious corporation, the citation of the adjoining proprietors being first made, it is as follows: Situated on the left bank of the Rio Bravo, facing the ford of Anucintas and Ft. Paredes, its first line, *AB*, 200 varas; second line, *BC*, seven hundred varas; the polygon formed between the letters *DA* was not measured, because it passes by the river and is an unchangeable line. This survey agrees with the foregoing plan, and the adjoining proprietors agreed to the statement of the applicant; all of which I have the honor to report to your honor, in order that you may determine what is proper. Matamoras, August second, one thousand eight hundred and forty-seven.

BARTOLOME PASSEMENT.

Matamoras, September fourth, one thousand eight hundred and forty-seven.—Let publication be made for the time and in the form used and adopted by this illustrious ayuntamiento. I, its president, so order and sign. I certify. Licentiate FRANCISCO VALDES. By the secretary, Joaquin Arguelles. On the same day, month, and year, in consequence of what had been ordered, I posted up in a public place the following: Notice. D. Nicolas Cabazos solicits from this illustrious ayuntamiento the issuance of a title to a labor in the possession of which he has been for twenty years in the place and under the boundaries within the Exidos, designated by the second syndic procurador, D. Bartolomé Passement, in his report on the subject; and public notice is given in order that, if any one shall consider that he has a better right, he may appear to maintain it within forty days, counted from this date. Matamoras, September fourth, one thousand eight hundred and forty-seven. And for its proof, I insert it literally and certify it.

ARGUELLES.

[Over.]

In the city of Matamoras, on the seventeenth day of the month of October, one thousand eight hundred and forty-seven, I, the Licentiate, D. Francisco Valdez, first constitutional alcalde, and president of its illustrious ayuntamiento, say that that honorable body, to whom a report was made, accompanied by these papers, at the session on this day, has thought fit to order that the denunciation of the land of the labor made by D. Nicolas José Cabazos, in his petition on the first leaf having passed with any opposition, the land of the labor under the plan and explanatory report appearing on the second leaf, made by the syndic procurador, and with the conditions which the existing laws permit, ought to be adjudicated to him, and it was adjudged to him by way of grant, for which purpose and for its enjoyment endorse, let a copy of these proceedings be delivered to him to serve him as a title in form, the payment having been first made to the treasury of the amount fixed by the municipal ordinances for this class of grants. And the said president signed it before me. I certify, Licentiate FRANCISCO VALDEZ, on account of the illness of the secretary, Joaquin Arguelles.

For the grant made to D. Nicolas José Cabazos of the labor aforementioned, I have received as treasurer, from the said person, five dollars, provided in the forty-first article of the municipal ordinances of this city.

Matamoras, October eighteenth, eighteen hundred and forty-seven.
J. JOSÉ LOPEZ.

This conforms to the original proceedings which remain in the secretary's office of this illustrious ayuntamiento, which is under my charge, to which I refer, and in compliance with what is ordered in the act of adjudication, hereunto inserted, I give these presents to the interested party, D. Nicolas José Cabazos, possessor of the labor referred to in the said proceedings. It is written on four legal leaves of common paper, there being none in this city of the corresponding seal.

Matamoras, October eighteenth, one thousand eight hundred and forty-seven, on account of the sickness of the secretary of the ayuntamiento.

JOAQUIN ARGUELLES.

Fees on this copy and the original proceedings, nine dollars, four reals.

I certify that the foregoing is a correct translation of the original, made under an order of the Court.

WILLIAM G. HALE.

No. 41.

Deposition of Willard Richardson, and marked advertisements in the newspapers annexed.

[Commission.]

The President of the United States

To Edmund B. Otis, Augustus C. Allen, Thomas H. Duval, and E. P. Hunt, or either and each of them, greeting:

Know ye that I, in consequence of your prudence and fidelity, have appointed, and do by these presents give unto you (and each of you) full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a cause now depending and at issue in Chancery in the District Court of the United States for the District of Texas, wherein Don Rafael Garcia Cabazos is complainant, and Charles Stillman is defendant; and therefore I command that one of you do, at certain days and places to be appointed for that purpose, cause the witnesses named in the title to said interrogatories, or such of them as shall be delivered to you, to come before you, and then and there examine them apart upon the said interrogatories, either on their respective corporal oaths first taken before you on the Holy Evangelists, or, in case of Quakers, upon their solemn affirmation and declaration, or in such other solemn manner as is or may be authorized by law; and that you do take such their examinations and reduce them into writing; and when you shall have so taken them, you are to send the same to the Clerk of the above named Courts without delay whatsoever; it shall be closed up and under your seal distinctly and plainly set, together with the said interrogatories and this writ; and I further command that before you act in or be present at the swearing or examining any witness or witnesses, you do take and subscribe the oath specified in the schedule hereunto annexed before a commissioner of the United States, or a judge of some court of record.

Witness the Honorable John C. Watrous, Judge of the District Court of the United States for the District of Texas, and seal [L. s.] of the said Court, this 7th day of August, A. D. 1850.

JAMES LOVE, *Clerk.*

I will, according to the best of my skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the commission annexed upon the interrogatories delivered to me; and I will not publish, disclose, or make known to any person or persons whatsoever, the contents of all or any of the depositions of the witnesses, or any of them, to be taken by me, until publication shall pass, pursuant to some general or special order of the Court wherein the same are taken.

So help me God.

E. P. HUNT.

Subscribed and sworn to this 7th day of August, A. D. 1850, before me.

EMMETT JONES,
U. S. Commissioner.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be administered to Willard Richardson, Hamilton Stuart, Samuel M. Williams,

Witnesses to be produced, examined and sworn in a certain civil cause now depending and at issue in the District Court of the United States for the District of Texas, wherein Rafael Garcia Cabazos, Maria Josefa Cabazos, his wife, and Estefana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Musina, Richard Fitzpatrick, Patrick C. Shannon, W. W. Chapman, and Maria Angela, or de los Angeles Garcia, Safen de Tarneva, Ramon Safen, Feliciano de Tigerina and Josef Manuel Prieto are defendants, on the part of said complainants.

Interrogatory first. Do you know the parties in this cause, or any of them? How long have known them, respectively?

Interrogatory second. Look at the several copies of newspapers now produced to you, and to be annexed to your deposition, marked *D*. Of what newspaper are the same copies or numbers? Where is such newspaper printed?

Interrogatory third, and last. Do you know or can you set forth any other matter or thing material to the subject of this examination, or which may be of service to any of the parties in this cause? if yea, set it forth fully and at large in your answer.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Compl'ts.

I, James Love, Clerk of the District Court of the United States for the District of Texas, hereby certify the foregoing to be a true and correct copy of the interrogatories filed in this office on the 25th July, 1850, in the case of Rafael Garcia Cavazos *et als.* against Charles Stillman *et als.*

JAMES LOVE, *Clerk.*

[Deposition.]

Deposition of Willard Richardson, a witness produced, sworn and examined on Thursday, the seventh day of August, A. D. 1850, at the office of E. P. Hunt, Commissioner, in Galveston, Texas, by virtue of a commission issuing out of the District Court of the United States for the District of Texas, and hereto attached; I, the acting Commissioner under the said commission, having first duly taken the oath annexed thereto.

The said Willard Richardson, of Galveston, in the said State of

Texas, a witness produced, sworn and examined on the part of the complainants, depose and says as follows:

In answer to the first interrogatory to him addressed. I do not certainly know that I am acquainted with any one of the parties to this suit.

In answer to the second interrogatory to him addressed: The newspaper, marked *D 1*, is a copy of a newspaper called the American Flag, published at Brownsville, Texas, dated January 24th, 1849, vol. 3, No. 244. The one marked *D 2* is a copy of same paper, dated February 7th, 1849, also published at Brownsville, vol. 3, No. 246. The one marked *D 3* is a copy of the American Flag, published at Matamoras, Mexico, and dated June 14th, 1848, vol. 3, No. 208. The said newspapers I have regularly received since the commencement of their publication, and the papers above referred to are true copies of said newspaper.

In answer to the third interrogatory to him addressed. I know nothing further material to the parties to this cause.

W. RICHARDSON.

And I, the said Commissioner, do hereby certify, that the above answers having been taken and reduced to writing by me, now carefully read over by me to the said witness, who thereupon subscribed the same in my presence.

Witness my hand and private seal, this day and year first before written.

[SEAL.]

E. P. HUNT,
Commissioner.

D 1.

Notice.

All persons who have made selections of town lots in the town of Brownsville, are hereby notified to come forward within thirty days and take their titles for the same, or the said property will be considered as abandoned and in market. Terms, warrantee deeds, or title bonds, as the parties may choose. Title bond, one-third cash, the remainder in three equal instalments of six, twelve, and eighteen months, with legal interest from date. Cornelius Peterson is our legally authorized agent to attend to the matter.

C. STILLMAN,
S. A. BELDEN,
J. MUSSINA,
Proprietors.

Brownsville, Dec. 6, 1848.

D 2.

Freeport, opposite Matamoras.

As an inducement to merchants and persons who will make permanent improvements, I have determined to sell a limited number of

lots at very low rates—on the following terms: say 20 per cent. of the purchase-money in hand, and the balance in 6, 12, 18, and 24 months' notes, retaining simply a lien on the property until paid.

I deem it unnecessary to say anything as to location or advantages possessed, as persons desirous of purchasing will examine for themselves.

Price of lots, from fifty to one hundred dollars each, and the size of said lots 42 feet ten inches front by 150 feet in depth.

Capt. Walter Murphy, Agent, corner of Elizabeth and Seventh streets, will exhibit a plot and give purchasers every information. In his absence, Mr. Isaac James and John Waterhouse, Esq., will point out unsold lots.

P. C. SHANNON,
Proprietor.

Feb. 7.

D 3.

P. C. Shannon.

General Agent and Commission Merchant,
Matamoras, Mexico,

And proprietor of the "Matamoras and Freeport Ferries."

P. C. S. will purchase and sell valid land claims in Texas; also, attend to the recording and perfecting of titles, for an interest in the lands or a commission. Letters addressed, post paid, will receive due attention. Lots for sale in Freeport; also, several leagues of choice sugar, cotton, and tobacco lands, on the Rio Grande and Nueces Rivers. Terms, in all cases, cash.

Matamoras, April 1, 1848.

Defendants' Testimony.

No. 1.

The introductory clause in the original bill, as evidence in the cause.

Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, Doña Estefana Gozeascochea de Cortina, now a widow, Doña Feliciano de Tigerina, now also a widow, Don Constantino Tarneva, and Doña Angela Garcia Safen de Tarneva, his wife, Ramon Safen, minor son of the said Angela Garcia Safen de Tarneva by the former husband, Don Ramon Safen, now deceased, appearing by his guardian and next friend, the said Don Constantino Tarneva, and Don Manuel Prieto, all of whom are aliens to the said United States of America, and citizens of the State of Tamaulipas, and of the United Mexican States, bring this their bill against Charles Stillman, of who is a citizen of the State of Texas, Richard Fitzpatrick, who is also a citizen of the State of Texas, and residing at or near the town of Brownsville therein, P. C. Shannon of who is also a citizen of the State of Texas, and Samuel Belden, of who is also a citizen of the State of Texas, and W. W. Chapman, of who is also a citizen of the State of Texas.

The introductory part of the bill, from the 9 to the 24 lines, inclusive, was offered in evidence by the defendants at the hearing of this cause, and objected to by complainants, and objection sustained. It was then offered in evidence by the defendants, as evidence on the motion to dismiss for want of jurisdiction by all the defendants; and objected to by complainants—objection overruled, and read in evidence by defendants.

No. 2.

Letter from the Secretary of State of the U. S. to Messrs. Monroe & Pinckney, April 15, 1804, page 630, vol. 2, American State Papers, part enclosed in brackets.

N. B.—Not on file in this cause, and cannot be procured by me.
JAMES LOVE,
Clerk.

No. 3.

Letter from Mr. Monroe to M. Talleyrand, November 8, 1804, page 634, vol. 2, same.

N. B.—Not on file in this cause, and cannot be procured by me.
JAMES LOVE,
Clerk.

4.

Letter from Messrs. Monroe and Pinckney to Mr. Cevallos Aranjuez, January 28, 1805, page 637, vol. 2, same.

N. B.—Not on file in this cause, and cannot be procured by me.
JAMES LOVE,
Clerk.

No. 5.

Letter from Secretary of State of the United States to Don Luis de Onis, June 10, 1816, page 430, vol. iv., same.

With respect to the western boundary of Louisiana, I have to remark that this government has never doubted, since the treaty of 1803, that it extended to the Rio Bravo. Satisfied I am, if the claims of the two nations were submitted to an impartial tribunal, who, observing the principles applicable to the case, and tracing facts, as to discovery and settlement, on either side, that such would be its decision. The discovery of the Mississippi as low down as the Arkansas, in 1673, and to its mouth, in 1680, and the establishment of settlements on that river, and on the bay of St. Bernard, on the western side of the Colorado, in 1685, under the authority of France, when the nearest settlement of Spain was in the province of Panuco, are facts which place the claim of the United States on ground not to be shaken. It is known that nothing occurred afterwards on the part

of France to weaken this claim. The difference which afterwards took place between France and Spain, respecting Spanish encroachments there, and the war which ensued, to which they contributed, tended to confirm it.

I have thought it proper to make these remarks, in reply to your letter of February 22, respecting the eastern and western boundary of Louisiana. The subject having been fully treated in several notes to your government in 1805, and particularly in those of March 8th and April 20th of that year, I beg to refer you to them for a further view of the settlements of this government on the subject.

No. 6.

Same to same, March 12, 1818, pages 470 to 475, vol. iv., same.

Let us pass to the consideration of the western boundaries of Louisiana.

With the note of Messrs. Monroe and Pinckney to Don Pedro Cevallos of 28th January, 1805, a memoir upon these boundaries was presented to that minister, proving that they extended eastward to the Perdido, and westward to the Rio Bravo, or Grande del Norte. They observed in that note that "the facts and principles which justify this conclusion are so satisfactory to their government as to convince it that the United States have not a better right to the Island of New Orleans, under the cession referred to, than they have to the whole district of territory thus described.

In their note of the 20th April, 1805, to the same minister, replying to his argument in support of the pretensions of your government, with regard to those limits they lay down and establish, by a chain of reasoning which Mr. Cevallos, at the time, nor your government at any period since, has ever attempted to break, three principles, sanctioned alike by immutable justice and the general practice of the European nations which have formed settlements, and held possessions in this hemisphere; and, by application of which to the facts, also stated in their note, this question of the western boundary ought then to have been, and eventually must be, settled. These principles were—

First. "That when any European nation takes possession of any extent of seacoast, that possession is understood as extending into the interior country to the sources of the rivers emptying within that coast, to all their branches, and the country the cover, and to give it a right in exclusion of all other nations to the same."

Secondly. "That whenever one European nation makes a discovery, and takes possession of any portion of this continent, and another afterwards does the same at some distance from it, where the boundary between them is not determined by the principle above mentioned, the middle distance becomes such of course."

Thirdly. "That whenever any European nation has thus acquired a right to any portion of territory on this continent, that right can never be diminished or affected by any other power, by virtue of purchases made by grants or conquests of the natives within the limits thereof."

The facts stated in this last mentioned note, and to which these

principles were applied, in support of the claim of the United States under the cession of Louisiana by France to them, were—

1. That the Mississippi, in its whole length to the ocean, was discovered by French subjects from Canada in 1683.

2. That La Salle, a Frenchman, with a commission and authority from Louis XIV, discovered the Bay of St. Bernard, and formed a settlement there on the western side of the River Colorado, in the year 1685, and that the possession thus taken in the Bay of St. Bernard, in connexion with that on the Mississippi, had always been understood, as of right it ought, to extend to the Rio Bravo.

3 That the boundary thus founded upon possession was described as forming the limits of Louisiana, in the grant by Louis XIV to Crozat in 1712.

4. That it was supported by the testimony of the historical writers, Du Pratz and Champigny; by an historical and political memoir on Louisiana, written by the Count de Vergennes, the minister of Louis XVI; by a chart of Louisiana, published in 1762, by Don Thomas Lopez, geographer to the King of Spain; and by a map of De Lisle of the Academy of Sciences at Paris, revised and republished there in 1782.

To these principles, thus clear, equitable, and explicit; to these facts thus precise, authentic, and unsophisticated, what was opposed by Don Pedro Cevallos at that time, and what is now alleged by you?

Mr. Cevallos began by admitting that the western limits of Louisiana had never been exactly fixed, and alleged that, in the year 1690, five or six years of the possession taken, and the settlement formed by La Salle, Captain Alonzo de Leon, under a commission from the viceroy of Mexico, examined the Bay of Esperitu Santo, (St. Bernard,) took possession of the territory, and founded the mission of *St. Francisco de Texas*. Mr. Cevallos asserted that it *would be very easy* to make it appear that France had never claimed this extent for Louisiana, but he did not make it appear. He also said that, if France had claimed it, Spain had never recognized, and was not bound to acknowledge the claim.

Mr. Cevallos said that the limits between Louisiana and the Texas had always been *known*, even when the French possessed Louisiana, but he had just before acknowledged that they had never before been fixed. He spoke of missions founded near the beginning of last century by the venerable Margel, of the order of St. Francisco; he alluded to plans, and documents, and historical relations, which were not to be found in his department, but many of which, he added, were in the department of the interior, besides those which were in the viceroyalty of Mexico, but he never pretended a possession, by Spain, of the territories in question, of an earlier date than 1690.

And what are these plans, and documents, and historical relations, which, after the lapse of thirteen years, you have drawn forth from all the archives of Spain, and all the historical disquisitions upon the discovery and conquest of the new world? Is it to that catalogue, biographical and geographical, of Spanish adventurers, and of the numberless regions explored by them in the sixteenth century, which swells your note of the 5th January, that we are to look for the limits

of Louisiana and Texas? Or is it to that "royal order issued by Philip II, enjoining the extermination of all foreigners who would dare to penetrate into the Gulf of Mexico," by virtue of which the viceroy fitted out the expedition to scour the country and *hunt out* the French of La Salle's settlement. Is it to that royal order that you appeal for proof of the prior title of Spain? It is even so. But as the voyages of Ponce de Leon in 1511, of Francisco de Garay in 1518, and of Hernando de Soto in 1538, have no more bearing upon this question than the voyages of Christopher Columbus and Sebastian Cabot, so you must be sensible that the royal exterminating order of Philip II, if it proved anything, would prove fatal to the whole province or colony of Louisiana. If that order could have been carried into execution, no such colony as that of Louisiana could ever have been established by France. That order, and any proceeding of the viceroy of Mexico under it, can no more affect the right of the United States to the limits marked by the settlement of La Salle, than it can impair their title to the Island of New Orleans. Far more honorable would it be, sir, to the character of your nation and the credit of your government, to bury in the profoundest oblivion the memory of that atrocious order, than at this day to produce it, for the purpose of bolstering up a title for which you have in vain ransacked the records of Spanish monarchy to discover a better support.

To the efficacy, however, of this royal order, your whole argument in behalf of the pretensions of your government perpetually recurs; for, although in some passages of your note you seem disposed to allow to the colony of Louisiana at least the eastern banks of the Mississippi, yet you are frequently shrinking even from the concession, and representing the whole colony as an encroachment upon the dominion of Spain; at one time representing it is a profound stratagem of Louis XIV, seizing with rapacious avidity the unsuspecting moment of confidence of his grandson, Philip V, while placing him upon the throne of Spain; and, at another, holding it up as the act of a disordered imagination of the same Louis XIV, manifested in the grant of 1712, to Crozat. This grant you pronounce to be absurd and completely despicable; but for what reason, it is not easy to conjecture. It certainly does not favor the pretensions of your government, and it has none of the exterminating features of the royal order of Philip II; but we consider it as it has always been considered by the world, as a document not only indicative of sound judgment and discretion, but as marking the limits of Louisiana, as always claimed by France, and transferred as relates to the western limits, with her title to that province, to the United States.

It is remarkable that, in imitation of Mr. Cevallos, you also, after repeatedly insisting that the boundaries of Louisiana were well known and always acknowledged by France, finally conclude by admitting that they never were fixed or agreed upon. You repeat, time after time, that the French *never disputed* the right of Spain to all the territory westward of the Mississippi, while you cannot deny the settlement of La Salle at the Bay of St. Bernard, in 1684; nor that the French settlements of Natchez and Natchitoches were made and maintained in spite of all the military expeditions, rigorous executions,

and exterminating orders which the viceroys of Mexico could send against them.

We may admit that so long as the Spanish viceroys could exterminate every foreigner who dared to penetrate into the Gulf of Mexico, they had the royal order of Philip II for so doing. The bull of Pope Alexander VI is a document of still earlier date, and at least of less disgusting import, upon which Spain once rested her claims to yet more extensive dominions in this western world. With equal show of reason, and with less outrage upon the rights of humanity, might you have alleged that bull as the incontrovertible proof of the Spanish claims, as to bring forth at this day for its only substitute the royal order of Philip II.

You know, sir, and your own notes furnish, themselves, the most decisive proofs that France, while she held the colony of Louisiana, never did acknowledge the Mississippi as the western boundary of that province. The claim of France always did extend westward to the Rio Bravo; and the only boundaries ever acknowledged by her, before the cession to Spain of November 3, 1762, were those marked out in the grant from Louis XIV to Crozat. She always claimed the territory which you call Texas as being within the limits and forming part of Louisiana, which, in that grant, is declared to be bounded westward by New Mexico, eastward by Carolina, and extending inward to the Illinois, and to the sources of the Mississippi, and of its principal branches.

Mr. Cevallos says that these claims of France were never admitted nor recognized by Spain. Be it so. Neither were the claims of Spain ever acknowledged or admitted by France; the boundary was disputed and never settled; it still remains to be settled; and here is a simple statement of the grounds alleged by each of the parties in support of their claims.

On the part of the United States.

1. The discovery of the Mississippi from near its source to the ocean, by the French from Canada in 1683.

2. The possession taken and establishment made by La Salle, at the bay of St. Bernard, west of the rivers Trinity and Colorado, by authority from Louis XIV, in 1685.

3. The charter to Louis XIV to Crozat, in 1712.

4. The historical of Du Pratz, and Champigny, and of the Count de Vergennes.

5. The geographical authority of de Lisle's map, and especially that of the map of Don Thomas Lopez, geographer to the king of Spain, published in 1762.

These documents were all referred to in the letter from Messrs. Pinckney and Monroe to Mr. Cevallos, of 20th of April, 1805, since which time, and in further confirmation of the same claims, the government of the United States are enabled to refer you to the following:

6. A map published by Homann, at Nuremburg, in 1712.

7. A geographical work, published in 1717, at London, entitled "Atlas Geographicus," or a Complete System of Geography, Ancient

and Modern, in which the map of Louisiana marks its extent from the Rio Bravo to the Perdido. In both these maps the fort built by La Salle is laid down on the spot now called Matagorda.

8. An official British map, published in 1755, by Bowen, intended to point out the boundaries of the British, Spanish, and French colonies in North America.

9. The narratives published at Paris, of Hennepin, in 1683 ; of Tonti, in 1697 ; and of Joutel, in 1713.

10. The letter from Colonel La Harpe to Don Martin D'Larconne, of 8th July, 1719, (A. No. 1, B. No. 2).

11. The order from the French Governor of Louisiana, Bienville, to La Harpe, of August 10, 1721, (C. No. 3).

12. The Geographical work of Don Antonio de Alcedo, a Spanish geographer of the highest eminence. This work, and the map of Lopez, having been published after the cession of Louisiana to Spain, in 1762, afford decisive evidence of what Spain herself considered as the western boundary of Louisiana when she had no interest in contesting it against another State, (D. No. 4).

On the part of Spain.

1. The voyages of Ponce de Leon, Vasquez de Ayllon, Panfilo de Narvaes, Hernando de Soto, Luis Moscoro, and other Spanish travellers in the sixteenth century, who never made any settlement on any of the territories in question, but who travelled, as you observed, into countries too tedious to enumerate.

2. The establishment of the new kingdoms of Leon and Santander in 1595, and the province of Coahuila, in 1600.

3. The province of Texas, founded in 1690.

Here, you will please to observe, begins the conflict with the claims of France to the western boundary of Louisiana, transferred by the cession of the province to the United States. The *presidios*, or settlements of Las Texas, were, by your own statement, adverse settlements to that of La Salle, who, six years before, had taken formal possession of the country in the name and by the authority of a charter from Louis XIV. They were preceded by an expedition from Mexico the year before (that is, 1689) to *hunt out* the French remaining of the settlement of La Salle. Now, what right had the viceroy of Mexico to hunt out the French who had made a settlement under the sanction of their sovereign's authority? You will tell me that from the time when Santa Fé, the capital of New Mexico, was built, *Spain considered* all the territory east and north of that province, as far as the Mississippi and the Missouri, as her property ; that the whole circumference of the Gulf of Mexico was hers ; and that Philip II had issued a royal order to exterminate every foreigner who should dare to penetrate to it ; so that the whole question of right between the United States and Spain, with regard to this boundary, centres in this : The naked pretension of Spain to the whole circumference of the Gulf of Mexico, with the exterminating order of Philip II on one side, and the actual occupancy of France, by a solemn charter from Louis XIV, on the other. Well might Messrs. Pinckney and

Monroe write to Mr. Cevallos, in 1805, that the claim of the United States to the boundary of the Rio Bravo was as clear as their right to the Island of New Orleans.

In the letter from Messrs. Pinckney and Monroe to Mr. Cevallos, of the 20th of April, 1805, referring to the historical documents relative to the discovery and naming of Louisiana, they state that the Mississippi was discovered with "its waters and dependent country as low down the river as the Arkansas by the Sieurs Joliet and Marquette, from Canada, as early as the year 1673, and to its mouth by the Father Hennepin, in 1680; and by D. La Salle and Tonti, who descended the river with sixty men to the ocean, and called the country Louisiana, in 1682; and, in respect to the bay of St. Bernard in 1685, that this was done at these periods in the name and "under the authority of France by acts which proclaimed her sovereignty over the whole country to other powers, in a manner most public and solemn, such as making settlements and building forts within it."

To this Mr. Cevallos made no reply in 1805. But you, after giving an account of the murder by Spaniards of René de Landonière, observe that the story related of a Recollet Friar, called Father Hennepin, is still more *ridiculous*, who is said to have been made a prisoner by the Indians at the time they were at war with the French of Canada, and taken to the Illinois, whence he was occupied in exploring the country as far as the banks of the river St. Louis or Mississippi, of which he took possession in the name of Louis XIV, and gave it the name of Louisiana, (doubtless in his secret thought, and by a mere mental act.") You add that these accounts and others of a like nature are "contemptible in themselves, even although the facts they relate were authentic, since nothing can be inferred from them that can favor the ideas started by those who speak of those transient adventures and incursions."

I have in my possession, sir, (and it shall, when you please, be subject to your inspection,) a volume published at Paris in the year 1683, the title of which is "*Description de la Louisiane nouvellement decouverte, au sud oueste de la Nouvelle France, par ordre du Roy, dédiée à Majesté, par le R. P. Louis Hennepin, Missionnaire Recollet et Notaire Apostolique,*" (*Description of Louisiana, recently discovered to the southwest of New France, by order of the king, dedicated to his Majesty by the Rev. Father Louis Hennepin, a Recollet Missionary and Apostolic Notary.*) In the preface to the king, the author says: "Sire, I should never have dared to take the liberty of offering to your Majesty the narrative of a new discovery, which the Sieur de la Salle, governor of Fort Frontenac, my companions and myself have just made to the southwest of New France, if it had not been undertaken by your orders." "We have given the name of Louisiana to this great discovery, being persuaded that your Majesty would not disapprove that a part of the earth watered by a river of more than eight hundred leagues, and much greater than Europe, which may be called the delight of America, and which is capable of forming a great empire, should henceforth be known by the august name of Louis, that it may thereby have a sort of right to your protection, and hope for the advantage of belonging to you."

Now, sir, permit me to request you to compare this authentic statement with that perversion of all historical evidence by which you have styled and have attempted to make the story of Father Hennepin's discovery of Louisiana ridiculous. Here is a book, published at Paris, dedicated to Louis XIV, at the most glorious period of his reign, declaring to the world the discovery of Louisiana; declaring that it was made by his orders, and called by his name for the express purpose of entitling it to become his property. Is this contemptible? Is this a secret thought or a mere mental act? Is this a transient adventure or incursion? And after calling this information too vague and uncertain upon which to found a title, can you talk of the rights of possession derived to Spain from the travels of Ponce de Leon, Francisco de Garay, and Vasquez de Ayllon?

Your view of the expeditions and adventures of Lasalle is equally remote from the real and well-authenticated facts. "Let us see," you say, "what importance can be attached to what is said of Bernard (Robert) de la Salle, who, in 1679, descended from Canada to the Mississippi, and there built Fort Cr vecoeur, according to M. Du Pratz, or Fort Prudhomme, according to others. *What is certain* amounts to this: That he only made a rapid incursion from Canada to the Mississippi, as any other adventurer might do, *crossing the territories* of another nation; that he returned to Quebec without any further result than that of an imperfect exploration of the country; and that he embarked at Quebec for France, from whence he returned in 1684, with an expedition composed of four vessels, commanded by Captain Beaujeau, to explore the mouth of the Mississippi," &c. In this passage you represent:

1. The facts attending the expedition of La Salle as *uncertain*.
2. That he only made a rapid incursion, as a private adventurer, and, so far as related to his exploring expedition, with an imperfect result.
3. That he only went from Canada to the Mississippi, and thence returned to Quebec, whence he embarked for France.
4. That he crossed the territories of another nation (meaning Spain.)

I examine this part of your note with a minuteness which will be tedious to you, because it is precisely upon the character of La Salle's expeditions that the grant of Louisiana to Crozat, by Louis XIV, is, in express terms, founded; because you have represented these expeditions in the colors thus marked with the avowed purpose of weakening the original title of Louisiana, and because you know that the characters, diametrically opposite, which I shall now prove to have belonged to them, must lead to the result of an incontestable title in France, and, consequently at this time, in the United States. I answer the above insinuations in the order in which they have been stated.

There are three narratives of the expeditions of La Salle, all published at Paris, by persons who accompanied him in them.

The first, in 1683, by Father Louis Hennepin, the same volume from which I have already presented you an extract.

The second, by the Chevalier *Tonti*, Governor of Fort St. Louis, at the Illinois, published in 1697.

The third, by Joutel, who was with him in his last expedition, and almost by his side when he fell by the hands of an assassin.

Of all the heroic enterprises which in the sixteenth and seventeenth centuries signalized the discoveries of Europeans upon this continent, there is not one of which the evidence is more certain, authentic, and particular than those of La Salle.

La Salle, after having resided many years in Canada as governor of Fort Frontenac, formed the project of exploring the country from thence to the Gulf of Mexico, and taking possession of it in the name of his sovereign. He went to France for the purpose of obtaining the sanction to his enterprise. "His Majesty (says Tonti) not content with merely approving his design, caused orders to be given to him, granting him permission to go and put it in execution; and, to assist him to carry so vast a project into effect, shortly after the necessary succors were furnished him, with entire liberty to dispose of all the countries which he might discover."

He sailed from La Rochelle the 14th of July, 1678, and arrived at Quebec the 15th of September. On the 18th of November of the same year he left Fort Frontenac, to proceed upon his expedition, with thirty men, Tonti and Father Hennepin being of the company. After spending more than a year in traversing the four lakes, now known by the names of Ontario, Erie, Huron, and Michigan, and erecting forts at suitable places where he landed, from thence he embarked upon the Illinois river, and, having descended it for some distance, was obliged to stop, from the disappointment of losing a boat from which he expected supplies. Here, upon the Illinois river, he built Fort Crévecœur, divided his company into separate parties—one for ascending the Mississippi to its source, and the other for proceeding down that river. Father Hennepin was of the former of these parties, and in their progress upwards, which they accomplished higher than the falls of St. Anthony, was taken prisoner by the Indians, and, after some time, was released by them, found his way back to Quebec, and thence returned to France, and published the book of which I have spoken. In this book, published in 1683, at Paris, and marked as having been finished printing the 5th of January of that year, three months before La Salle had reached the mouth of the Mississippi, there is a map of the river as far down as Hennepin descended it after he parted from La Salle, and upwards to the falls of St. Anthony and the river St. Francis above them; at some distance above which, within a few leagues of its source, is the oak tree upon which the arms of France were carved by the detachment from La Salle's expedition, authenticating with the most minute precision the discovery of the Mississippi to within a small distance of its source, as well as its course to the Gulf of Mexico. On the same map are also marked the fort at the Miamies and that of Crévecœur, on the Illinois river, constructed by La Salle's orders.

In the meanwhile La Salle was obliged to leave the other part of his company under the command of Tonti and go back to Fort Frontenac for the supplies and reinforcements which had failed him by the loss of his boat. He returned and joined them again in November, 1682, proceeded down to the Mississippi and to the mouth

of the Wabash, where they built the Fort Prudhomme, (which you have confounded with that of Crèvecoeur,) after which they continued descending, and successively meeting the Cappa, Arkansas, Tensas, Abenake, Yacutas, and Natchez Indians, and on the 7th of April, 1683, reached the mouth of the Mississippi, where, after the religious solemnity of a Te Deum, they took formal possession of the country, erected a cross, fastened the arms of France upon a tree, and built several huts, which they surrounded with suitable entrenchments. La Salle, thus having accomplished the object of his expedition, returned by the same way, ascending the river to his fort of Prudhomme, which he reached on the 12th of May, and where he was detained some time by sickness. "On his arrival at Quebec (again says Tonti) he informed the whole city of his great discoveries, and of the voluntary submission of so many different Indian nations to the power of the king. A Te Deum was celebrated as a thanksgiving for this happy accession to the glory of the crown. The eagerness of M. de la Salle to go and make known to the king and his ministers the success of his travels obliged him to hasten his departure. He left Canada in the beginning of October, 1683." On his return to France he was received with many marks of distinction by the king and his ministers, and a new expedition was fitted out of four ships and nearly three hundred persons for the purpose of forming a colony at the mouth of the Mississippi. One of these ships was a frigate of the king, of forty guns, commanded by M. de Beaujeau, in which La Salle himself, his brother Cavelier, and the principal persons belonging to the expedition, embarked; another was a smaller armed vessel which the king had given to La Salle; the third, a flute of three hundred guns, laden with all the articles necessary for the settlement of the country; and the fourth, a small sloop of thirty tons, freighted for St. Domingo, where the expedition stopped on its way, but before their arrival at which this last vessel was taken by Spanish cruisers. This expedition sailed from La Rochelle on the 24th of July, 1684.

They failed in finding the mouth of the Mississippi, their destination—an accident similar to that which had happened to the first settlers of New England; and, after many disasters, landed and built a fort in February, 1685, at the head of the bay of St. Bernard, or, as they call it, of St. Louis, and westward of the river Colorado. Beaujeau returned with the frigate to France; the two other vessels were lost in the bay, and La Salle, after several unsuccessful attempts to find the Mississippi, on the 12th of January, 1687, left at his fort twenty persons, including seven women, under the command of Le Barbier, and took his departure with sixteen others to go by land to the Illinois, and thence through Canada to France, to seek further reinforcement and supplies. On this journey he was basely assassinated on the 19th of March, 1687, by two of his own men, and left a name among the illustrious discoverers of the New World second only to that of Columbus, with whose history and adventures his own bear, in many particulars, a striking resemblance. His brother Cavelier, however, with Joutel and Father Anastase and several others of the party with whom he had commenced the journey, successfully accomplished it; arrived at the French fort at the Illinois, where they found

Tonti still in command, after having again been down to the mouth of the Mississippi, conformably to his orders from La Salle to meet the expedition from Europe, and, after waiting some time there, returning to his post. From the fort at the Illinois, Cavelier, Joutel, and Father Anastase proceeded to Quebec and thence returned to France, where they arrived in October, 1688, and where Joutel published the narrative of the expedition to which I have referred.

From the work of Joutel it likewise appears that the fort and colony left by La Salle at the westward of the Colorado was destroyed, not, as you stated, by the Indians, but by the Spaniards from Mexico, who until that time, had never had any settlement of any kind nearer than Panuco, and who, by your own account, had no other right or authority for this act than the royal order of Phillip II to exterminate all foreigners penetrating into the Gulf of Mexico.

The settlements of La Salle, therefore, at the head of the bay of St. Barnard, westward of the river which he called Rivière aux Bœufs, but which you call Colorado of Texas, was not, as you have represented it, the unauthorized incursion of a private adventurer into the territories of Spain, but an establishment having every character that could sanction the formation of any European colony upon this continent; and the viceroy of Mexico had no more right to destroy it by a military force than the present viceroy would have to send an army and destroy the city of New Orleans. It was a part of Louisiana, discovered by La Salle under formal and express authority from the King of France; and the royal exterminating order of Philip II was but one of the multitude of sanguinary acts which signalized the name and reign of that monarch, while the name of La Salle is entitled to stand high in the glorious roll of the benefactors of *the benefactors of* mankind. After this statement, founded upon the most authentic documents, the foundation of the presidio of Texas in 1693 was, by your own showing, an unlawful encroachment upon the territories of France, which, by the first of the three principles laid down by Mr. Pinckney and Monroe at Aranjuez, and above referred to, extended on the coast of the Gulf of Mexico, half way to the nearest Spanish settlement of Panuco, namely, to the Rio Bravo.

Your "thorough investigation" of the history of the original French settlements at the Illinois and the Arkansas, is as unfortunate and as wide from the facts, as all the rest of your dissertation upon the history of Louisiana. The following translated extracts from the work entitled "*Dernières Decouvertes dans l'Amérique Septentrionale de M. de la Salle, mises au jour par M. le Chevalier de Tonti, gouverneur de Fort St Louis, aux Illinois.*" (Last discoveries in North America of M. de la Salle, published by the Chevalier Tonti, governor of Fort St. Louis, at the Illinois, Paris, 1697) will furnish you more correct ideas upon the subject.

When La Salle left his fort, Crève-cœur, on the 8th of November, 1680, to go back to Canada for supplies, "on the third day (says Tonti) he arrived at the great village of the Illinois, where, after having observed the situation of the country, in the midst of several nations of the Miamies, Kickapoos, Ainoos, Mescontaws, and several others, watered by a beautiful river, he thought he ought to build a

fort on a height commanding the whole country, as well as to make himself master of all these different tribes, as to serve as a retreat and a rampart for our French people" (p. 94.) M. de la Salle, after learning that his boat was "lost, was not in the least discomposed, but wrote to me immediately, sent me with his letter, the plan of the fort that he had designed, and ordered me to come and set to work upon it without delay." Tonti accordingly went and began the building of the fort, which, from various untoward events, he was soon obliged to abandon. La Salle afterwards, before rejoining Tonti to proceed down the river, went to the next fort, and left several workmen to continue, and some soldiers to guard it. But it was upon his return from the mouth of the Mississippi, on leaving Michilimackinac to go to France, that he gave orders to Tonti to finish the fort.

"He charged me with the duty to go and finish Fort St Louis, of which he gave me the government, with a full power to dispose of the lands in the neighborhood, and left all his people under my command, with the exception of six Frenchmen, whom he took with him to accompany him to Quebec. We departed on the same day—he for Canada, and I for the Illinois."

Tonti accordingly finished the fort, round which a regular and rapid settlement was formed; and a new governor in Canada having displaced him in the command of the fort, he was restored to it through the influence of La Salle, by a regular commission from the king, Louis XIV.

So much for the settlement at the Illinois. You have seen that when La Salle, in 1683, returned to France to fit out the new expedition to the mouth of the Mississippi, he ordered Tonti, at the proper time, to go down from Fort St. Louis and meet him there. In the autumn of 1684, Tonti was informed by the Governor of Canada, that La Salle had sailed from La Rochelle with four ships, for the Gulf of Mexico. He therefore took with him forty men from Fort St. Louis, and went down the river to the Gulf, where he waited until Easter Monday, 1685, for La Salle's arrival. He was obliged to go back disappointed, and on his way upwards, when he came to the Arkansas, he says: "My French companions, delighted with the beauty of the climate, asked my permission to settle there. As our intention was only to humanize and civilize the savages by associating with them, I readily gave my consent. I formed the plan of a house for myself at the Arkansas. I left ten Frenchmen of my company there with four Indians, to proceed with the building, and I gave them leave to lodge there themselves, and to cultivate as much of the land as they could clear. This little colony has since then so much increased and multiplied, that it has become a resting-place for the Frenchmen who travel in that country."

I trust, sir, we shall hear no more of the independent and unconnected Indian colonies of the Illinois and the Arkansas, nor of the *pretended* settlement of the French there.

You consider the charter of Louis XIV. to Crozat as a solitary document, warranted by nothing that had preceded, and supported by nothing that followed it; and you appear to believe that the first expedition to Louisiana was that of 1699 and 1700. I have shown you,

sir, that that expedition was fitted out, as it is represented in the grant to Crozat, merely to carry into execution the project originally formed by La Salle. The Mississippi, from near its source to the ocean, had been discovered by him in an expedition, meditated by him for many years before, for which he had obtained the authority of Louis XIV. through the influence and patronage of Colbert. This expedition of Joliet, in 1673, Hennepin says, was only an envious rival attempt to forestall the great design, which was even then known to be intended by La Salle, and for which he had already had been making laborious and expensive preparations. Joliet reached the Mississippi, and returned without making any other discovery or any settlement; but La Salle's undertaking has every characteristic of sublime genius, and magnanimous enterprise, and heroic execution. To him, and to him alone, are the people of this continent indebted for the discovery, from its source to the ocean, of the Mississippi, the Father of the Floods; and of the numberless millions of freemen destined in this and future ages to sail on his bosom and dwell along his banks, and those of his tributary streams, there is not one but will be deeply indebted for a large portion of his comforts and enjoyments of life to the genius and energy of La Salle.

It was in the order of Providence that he should not live to accomplish the whole of his undertaking, but that he should so nearly accomplish it as to place it beyond the power of events that it should perish with him. His project was revived immediately after the peace of Ryswick, and settlements were effected by D'Iberville and his brother, near the mouth of the Mississippi, upon the Gulf of Mexico. They languished, as they naturally must, during the war of the Spanish succession. The grant to Crozat, after a few years, was transferred to the Mississippi Company, and soon after the peace of Utrecht the city of New Orleans was founded.

There is no doubt that, if the Viceroy of Mexico could have exterminated D'Iberville and his expedition, no French settlement on the Gulf would have been made. The Spanish settlement at Pensacola had been made only one month before he arrived there, and solely for the purpose of preventing him; the Spaniards protested even against his entering the Mississippi. So it was afterwards, when the French settlement was made at Natchitoches; immediately afterwards was founded the post of Adaes. Wherever a Frenchman took a seat, there appeared a Spaniard from Mexico to dispute his right to it; but the original usurpation which vitiated all those that followed was the foundation of the Presidio of Texas, after extirpating the settlement of La Salle at the Bay of St. Bernard. And so far was France from renouncing or abdicating any part of the right asserted in the charter to Crozat, that, under the Mississippi Company, M. de Bourman was appointed, with a salary, as commandant on the Missouri, and Bernard la Harpe commandant for the Bay of St. Bernard. In August, 1721, he went there, and left a new impression of the arms of France as a continued assertion of the title. A vessel, commanded by Beringer, had been sent there, and left a sergeant and three men the year before. The correspondence between de la Harpe and D'Alarconne shows the respective claims both of France and Spain at that

time ; nor do they appear to have been, nor have you exhibited any document to show that they had been, in any manner varied, until the cession of the province to Spain in November, 1762.

You affirm that "from the year 1693 the province of Texas has continued in perfect tranquillity under the Spanish government, and no further attempts were made by the French to penetrate into any part of it." The letter of M. de la Harpe to Don Martin de Alarconne, of 8th July, 1719, is sufficient to refute this assertion.

You assert that the French settlements of Natches and Natchitoches were made only through the sufferance or permission of the Spanish governors, for the sole purpose of trading with the Indians. We say that you have not a particle of evidence to support this assertion, and that the whole tenor of the historical evidence is to the contrary ; that the port of Natchitoches, particularly, was established with the deliberate purpose of preventing a Spanish establishment there, and that the mission of St. Michael at the Adaes was founded after it and in opposition to it. You admit, yourself, that although positive orders were issued by the Spanish governors to drive the French from the whole district, and to destroy both the posts of Natchez and Natchitoches, yet the officer charged with the execution of the orders, after advancing with a sufficient force for that purpose, acceded to the proposals of the French at Natchitoches that Arroyo Hondo, midway between Natchitoches and Adaes, should be considered as the dividing line until the determination of the two courts, which state of things, you say, continued until the cession of Louisiana to Spain in 1763. What clearer proof could be required that the French never renounced their claim to the countries watered by the Mississippi and its branches, and that Spain has nothing to oppose to that claim which she might not with as much force oppose to the right of France to every other part of the colony of Louisiana ?

You allege that, on the cession of Louisiana to Spain, a memoir of its proper extent and limits was drawn up by Mr. Kerlet, who had been many years governor of the province, and delivered by the Duke de Choiseul to the Spanish Ambassador at Paris, as a supplement to the act of cession ; that this memoir contained a description of its proper extent and limits, and *agreed substantially* with your assertions. Permit me to observe that, had you produced the memoir itself, it might be a subject of reply or of remark ; that, not having produced it, you cannot expect it should be considered as possibly differing in substance from the charter of Louis XIV., by which alone Louisiana had been held, or from the subsequent memoir of the Count de Vergennes ; and that the rights of the United States can as little be affected by secret memoirs as by imaginary treaties, or exterminating royal orders of Philip II. With regard to your offer of further demonstrations of the Spanish title, if they are of the like description with these, you will do well to spare yourself and me the waste of time which it would take to produce and to notice them. You have the goodness to inform me, in the name of the King, your master, that Spain has an indisputable right to all the right bank of the Mississippi, but that his Majesty has resolved to claim it solely with a view to adhere to the *uti possidetis* of 1764. If, sir, you will exhibit *any*

evidence of the right in Spain to the right bank of the Mississippi, it will be considered by the government of the United States with all the attention to which it is entitled. In the mean time you cannot but perceive that this pretension is utterly incompatible both with that advanced in another part of your note, or of a right in Spain to the whole circumference of the Gulf of Mexico, and with that of the *uti possidetis* of 1764.

The question of disputed boundaries between European settlements in America is not new; from the nature of those settlements, the imperfect geographical knowledge possessed by all the parties to them of the countries where they formed their establishments, and the grasping spirit by which they were more or less animated in forming them, it was inevitable that disputed boundaries should be an appendage to them all. Of this spirit of boundless ambition Spain gave the most memorable example by the original pretension of engrossing to herself the whole American Hemisphere. The common sense and common feeling of mankind could not, and did not, long tolerate this assumption. With that lingering reluctance, and by what ungracious gradations, Spain was compelled to recede from it, is notorious in the annals of the last three centuries; but it is among the most curious characteristics of your notes to show that she clings to these long-exploded pretensions still. You have not scrupled, even at this day, to style the most ancient settlements of other European nations in America "attempts to disturb the Spaniards in their possessions in the new world."

You recall to mind, with exultation, as if pointing to the most splendid monuments of Spanish glory, the ferociousness with which they attacked, and made prisoners, and put to death, and overthrew, dissipated, and destroyed the forts and settlements of Francis Ribaut and René de Landonnière, the company of Coligny. You recite with triumph the expedition of Alonzo de Leon to scour the country and hunt out the wretched remnant of the brave and enterprising, but unfortunate La Salle's establishment. You record, as one of your proudest title deeds, the rigorous execution of the sentence of a court martial upon the Spanish governor of Adaes, Sandoval, for yielding a musket shot's length of ground to the French governor of Natchitoches, suffering under the calamity of an inundation. You call the whole colony of Louisiana an *intrusive establishment*, style the authentic charter of Louis XIV the absurd and despicable act of a disordered imagination, assert more than once the right of Spain to the whole circumference of the Gulf of Mexico, and talk of the territory and dominions of the crown of Spain as if we were living in the age of Ferdinand the Catholic, or of Charles V.

To all such pretensions on the part of Spain, I am directed to inform you that the United States can never accede. The President is willing to hope that the time will come when your government will become sensible of the uselessness of resorting to them.

From the time when the establishments of European nations on these continents became common, and their respective claims of territory under the charters of their sovereigns were found to interfere with one another, reason, justice, and necessity pointed out to them

certain rules and principles for the adjustment of their conflicting claims. By these rules and principles we are willing that the question of the western boundary of Louisiana may be decided. Till Spain, who has repeatedly acceded to them heretofore, shall be prepared to abide by them on this occasion, it will be of little avail to pursue a discussion upon which the principles of the parties are utterly irreconcilable together.

The complainants objected to the defendants reading in evidence the depositions of Urbano Perez and Joaquin Argüelles, taken on the part of the defendants Belden and Stillman, and the several papers therein referred to, marked *A, B, C, D, E, F, G, K, H, S*, for the following reasons among others: 1st. Because the depositions having been taken only for Belden and Stillman, and no notice having been given that they were to be offered on the part of the other defendants, so that the complainants could cross-examine as to them, the depositions could not be used by any of the defendants except those taking them. 2d. Because the depositions and the papers referred to were incompetent and irrelevant, and did not tend to prove the issues nor the allegations in the answers of the defendants. But the court allowed the testimony in favor of the defendants Belden and Stillman, but not in favor of the other defendants, reserving the objections for irrelevancy until the final argument.

JAMES LOVE, *Clerk.*

Translation.

UNITED STATES OF AMERICA,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs.
CHARLES STILLMAN and others. }

Translation of the proceedings before the court of the first instance in the city of Matamoras, in taking the depositions of Don Urbano Perez and Don Joaquin Argüelles on the part of the defendants.

On the outside cover.

MATAMORAS, *December 23, 1850.*

Proceedings had in fulfilment of the letter rogatory sent by the district court of the United States of America for the district of Texas, in the city of Galveston.

From the court of the first instance, with assisting witnesses.

Third seal.

Four reals.

Judge of the first instance.

Elisha Basse and Robert Hord, American citizens, residents of Brownsville, Texas, as has the best form of law, and with the neces-

sary and fitting declarations, appear before you and say, that in the district court of Texas, in the United States of America, we are prosecuting a suit as attorneys of Messrs. Charles Stillman and Samuel A. Belden. And in this suit the honorable judge of said district has been pleased to grant to our clients the letter rogatory which duly follows, in English and Spanish, that as is requested in it, you will be pleased to summon the Señores Don Joaquín Argüelles and Don Urbano Perez, witnesses, which, in conformity to the same letter we name, in order that comparing the copies which are properly annexed with their originals, they may testify before you, in conformity with the interrogatory annexed to the aforesaid letter, as to what they may know in relation to the matters to which it refers; returning it to us in the proceedings in the form required in it. We therefore entreat that you will be pleased to order what we have requested, because it is agreeable to justice. We swear to what is required, &c.

BASSE & HORD.

MATAMORAS, *December 23, 1850.*

The accompanying message having been presented, let what is requested in the letter rogatory be observed, complied with, and executed. I, the judge of the first instance in turn, acting with assisting witnesses on account of the occupation of the notary public, so order and sign. I certify.

MATIAS LONGORIA.

Ass. wit.
LEONARDO ESPINOSO.

Ass. wit.
LUIS L. DE LARA.

At the same date I notified the Señores Elisha Basse and Robert Hord; and, having heard it, the first one signed before me and my assisting witnesses. I certify.

LONGORIA,
BASSE & HORD.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
LUIS L. DE LARA.

In the city of Matamoras, on the twenty-third day of the month of December of the said year, the Senor Don Urbano Perez, having been previously cited, appeared in the court. I, the judge, administered to him the oath, which he took in the form prescribed by law, upon which he declared that he would state the truth as to what he might know and should be asked; and being so asked according to the tenor of the questions contained in the interrogatory, to which reference is made in the petition on the first leaf, having seen them, he answered:

To the first: That he knows the complainants, Don Rafael Garcia Cavazos and his wife, Dona Josefa Cavazos, and of the defendants he knows Charles Stillman, Samuel A. Belden, Patrick C. Shannon, W. W. Chapman, Dona Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Dona Feliciana de Tigerina, and Don Manuel Prieto.

To the second: That the documents to which the interrogatory refers, and which are now exhibited to him, marked with the letters *A, B, C, D, E, F, G, H, I, J, K, M, N, O*, are a faithful transcript, or complete copy of their originals, which are in the office of the illustrious ayuntamiento of this city, and that the deponent in the same proceeding has compared them before me, the present judge; that the said documents are now in the custody of Don José Maria Baldez, who, at present, exercises the office of secretary of the same illustrious ayuntamiento. That at the time the said copies or transcripts were made, the deponent held the office of third constitutional alcalde, and now holds no public office whatever. That the handwriting and signature which authorizes the copies referred to, is the same which Don Juan Prado used, and was accustomed to use, in all his public and private acts, and that he knows, and is sure, that the Senor Prado was legally authorized to make the said copies, being, as he was, secretary of the illustrious ayuntamiento at the dates in which they were made.

To the third: That he is ignorant of the subject of this interrogatory, because the documents referred to in it are not before him, probably that they have not yet been exhibited in court by the parties interested.

To the fourth: That the deponent did not know Don Francisco Mayorga, which individual he knows has been some time dead.

To the fifth: That he knows the person to whom the interrogatory refers; that this individual exercised in this city his office of notary public, and at present resides at Mazatlan, from which place, a short time since, he wrote a letter to deponent.

To the sixth: That the document to which the interrogatory refers, and which, in this proceeding, is exhibited to him, marked with the letters *H S*, is a faithful and legal copy of the municipal ordinances of this city of Matamoras; that the deponent has before me, the present judge, compared the said document with its original, which exists in the archives of the office of the illustrious ayuntamiento of this city; that the said ordinances are respected, and have the force of law.

To the seventh: That he is ignorant of the subject of this interrogatory.

To the eighth: That he knows no more which may be a benefit or advantage to the complainants and defendants; that what he has declared is the truth, upon his oath, and he confirms and ratifies it. That he is a native of San Luis Potosi, and resident of this city, married, a merchant, and thirty-four years of age, and signed with me and my assisting witnesses, with whom I act. I certify.

LONGORIA,
URBANO PEREZ.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
LUIS L. DE LARA.

In the aforesaid city, on the twenty-fourth day of the month of December of the same year, the Senor Don Joaquín Argüelles, notary public, having been previously cited, appeared in court. I adminis-

tered to him the oath which he took in the form prescribed by law, upon which he declared that he would state the truth as to what he might know and should be asked ; and being so asked, according to the tenor of the interrogatories annexed to the letter rogatory upon which these proceedings are founded, he answered :

To the first. That he knows the parties litigant in the suit to which the interrogatory refers, with the exception of Jacob Mussina and Richard Fitzpatrick, and as to the time of his forming the acquaintance of the persons not excepted it varies, and dates from different periods, so that he cannot exactly state the time.

To the second : That the deponent having seen the paper writings to which the interrogatory refers, marked from the letter *A* to *O*, less the *L*, says that all and each of them purport to be what their text indicates—that is, copies of their originals ; that he has no recollection of having up to the present time compared all or any of the paper writings with the originals of which they profess to be copies, and consequently can say nothing of the time, place, and the rest of the circumstances referred to in the interrogatory ; that referring to the last portions of the interrogatory to which he can answer, he will say that the handwriting and signature of the subscription at the end of the thirteen first documents, and the last the signature of the citizen Juan Prado, secretary ad interim of this illustrious Ayuntamiento, only appear, and as such authorized to sign them, and authorize them like any other of his class, having that power in virtue of his office by the regulations in force.

To the third : That not having before him the documents to which the interrogatory refers, he has nothing to say.

To the fourth : That he knew Don Francisco Mayorga, and that he is now dead.

To the fifth : That he knows the Bachelor Don Pedro Pablo Palaez, now Licentiate ; that he knows he yet lives and resides in the Port de Mazatlan, because, not many days since, the deponent had in his hand a public instrument authorized before him as notary. That the aforementioned Palaez exercised that office in this city from 1835 to the end of 1841.

To the sixth : That the paper writing marked with the letters *HS*, speaks for itself. That the deponent has not compared it with the original, which he says are the ordinances of Matamoras ; that by the ordinances is understood all municipal regulations, which, with the sanction of the higher authority, regulate the internal government of towns ; that their authority, in themselves, are genuine, and have the force of law.

To the seventh : That he cannot, with any certainty, certify that in the archives of the Ayuntamiento of this city there exists any proceedings, suit, or pleadings, commenced by Dona Maria Ritá Giron, with regard to her right to the land of the Egidos of the same city, because he has not gone into an examination of the said archives to establish that fact. That he has heard by popular rumor that this lady was in litigation about the said land.

To the eighth : That he does not recollect any more particulars in relation to this examination ; that what he has stated is the truth

upon his oath, and he confirms and ratifies it ; that he is a native of Guemes, in the State of Tamaulipas, citizen of this town, married, notary public, and over thirty years of age ; his deposition was read to him ; he said it was correctly written ; and signed with me and my assisting witnesses with whom I act for the reason stated. I certify.

LONGORIA.

JOAQUIN ARGUELLES.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

MATAMORAS, *December 24, 1850.*

All the proceedings sought by the parties being concluded, let the originals annexed to the letter rogatory and the interrogatories which gave rise to them be delivered over, all under cover to the court requesting it. I, the citizen Matias Longoria, third alcalde, judge of the first instance, acting with my assisting witnesses for the reason stated, so order and sign. I certify.

LONGORIA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

On the same date, and in compliance with the foregoing order, these proceedings on six legal leaves are handed over, and the rest as provided in the said order. And in testimony thereof I give the present certificate, which I sign with my assisting witnesses. I certify.

LONGORIA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

RAFAEL GARCIA CAVAZOS and others }
vs.
 CHARLES STILLMAN and others. }

AUGUST 6, 1856.

The within paper was produced upon the execution of the commission in the above entitled cause, hereto attached and shown to William G. Hale, the witness interrogated, and by him deposed to, as stated in his answer.

E. P. HUNT, *Commissioner.*

Translation of a document exhibit, referred to, marked LM.

There is no sealed paper of the corresponding seal in the office of the administration.

Circular : Executive office of the free State of Tamaulipas. The governor of the State of Tamaulipas to all its inhabitants : Know ye that the Congress of the same State has decreed as follows : Number 12. The constitutional congress of the free State of Tamaulipas, desiring to foster population and to perpetuate the memory of one of the martyrs of the country, has decreed as follows : Article 1. The title

of town (villa) is granted to the congregation of Refugio, and it shall be called Town of Matamoras. Article 2. That settlement shall remain where it now is, and the government shall take the necessary proceedings to ascertain the title to the land on which it is established, causing the indemnification to be made agreeably to law if it should belong to an individual. The governor of the State will cause this to be known, and will provide for its execution, having it printed, published, and circulated. In the city of Victoria, on the 28th January, 1826, third of the installation of the congress of this State. José Miguel de la Garcia, deputy president. Juan Nepomuceno de la Barrida, deputy secretary. Rafael Quintero, deputy secretary. Wherefore I order it to be printed, published, and circulated, and that it be duly executed. City of Victoria, January 30th of 1826. Third of the installation of the Congress of this State. LUCAS FERNANDEZ. José Rafael Benavides, secretary.

This is a copy conforming to its original form, which it has been ordered to be copied by a resolution of the illustrious ayuntamiento of the 20th of April last, upon the request of Don Juan Treanor as the lawful representative of Don Rafael Garcia Cavazos, on one legal sheet of common paper, there being none of the corresponding seal in the office of the department in this city, Matamoras, May 2, 1850.

JUAN PRADO,

Secretary ad interim.

Translation of exhibit marked XY.

There is no sealed paper of the corresponding stamp in the office of the administration.

In the town of Matamoras, on the third day of December, 1831, the constitutional ayuntamiento of the said town having convened in an ordinary session presided over by their president to make the restitutions which appertain to it, the president declared the session opened, and ordered the secretary to read the petitions that had been made; upon which a petition of the citizen Juan Tigerina was read as to compensation for the lands which they took from him for Ejidos, or that he should be indemnified for what had been taken, as as the governor orders the parties to apply by themselves, or by their attorney, for the settlement of the matter of the petition, the ayuntamiento ordered that this precept should be complied with in all its parts. The ayuntamiento resolved that the peaceable citizens who ask for land on the plaza for stations on Christmas holidays should have it granted to them by the syndic procurator or his agent. It was also resolved that there be assigned to the citizen Juan de Hinojosa a vacant lot, which he formerly denounced on the Plaza de Armes, and in which he should be placed in possession immediately, considering that he is in possession of it in right of his legitimate father, to whom it was assigned in the year 1827. A petition of various citizens having been read for the establishment of butcheries of all kinds of animals in points at a distance from each other, and no longer are subject to the contestors. The petition having been heard, the ayuntamiento declared that the

petition was not admissible, since all were at liberty to slaughter where they pleased, not leaving any kind of offal. It was resolved that a vacant piece of land that the citizen Pascal Regna had demanded in the Square of Commerce should be assigned to him; finally, it was resolved that a notification should be made to the citizens owning the lands which were taken for Ejidos, of the final resolution that, within the period of twenty-five days, or a month at most, reckoned from the date of this entry, they should present themselves to the government of the State for the indemnification or compensation of the said lands. The illustrious corporation has so ordered, its president signing it, with all the members of the ayuntamiento and its secretary; which I certify.

This is a copy conforming to its original, from which it was ordered to be copied by a resolution of the illustrious ayuntamiento of the 20th of April last, at the request of Don Juan Treanor, as the representative of Don Rafael Garcia Cavazos, on two legal leaves of common paper, there being none of the corresponding seal in the office of the administration in this city. Matamoras, May 2, 1850.

JUAN PRADO,
Secretary ad interim.

Translation of exhibit marked ZZ.

Communicated.

Messrs. Editors of El Bien Publico: House of W., November 4, 1848: Gentlemen, have the goodness to publish in the columns of your esteemed journal the following communication, for which favor we shall be indebted to you.

We have noticed with great dissatisfaction and profound regret the decree which our legislature promulgated on the twentieth of the month last past, by which it despoils of their property all the Mexicans situated on the other side of the river in the Ejidos of this city. There is nothing more shameful, nothing that can give more room to injurious suppositions than the step which our legislature has taken, doubtless with great motives for doing so, but motives that do not appear to all in the same noonday light as the reasons which oppose it. In the first place, we shall be told that these citizens have acquired their properties under very legitimate titles, since no less authority than the most illustrious corporation of this city has granted them twenty years ago, the grantees paying their respective dues for their possessions so acquired. During this long period there is no person who, as legitimate owner, has molested them in the use of their properties or reclaimed them as wrongly acquired; that in all this time they have cultivated these lands and improved them by the sweat of their brows; they have also defended them from the savage Indians, and many of these proprietors have lost their lives and interests in their defense; that during the invasion that part of the country was the first to suffer in a terrible manner the cruel scourge of war, and notwithstanding all these protracted sufferings of our fellow-citizens who at this day, by virtue of a treaty, are in a

foreign country, they are to be persecuted and injured without any consideration, and all this with no other object than that of benefiting some few individuals at the expense of a multitude of unfortunate families who depend upon no other patrimony than that. When the sound principles of good faith and morality are sapped by the very persons who are entrusted with the exercise of power, the whole social edifice falls, since these are the principal and only basis of every rational government. In all the countries of the world at all civilized the guilty are punished and never the innocent. Following those principles that natural intelligence would suggest to us, we ask on whose side is justice in this question which our rulers have sought to observe? Is it perchance the citizens of Matamoras who have in any way prevented the government from remunerating at a fitting time the owners for the Ejidos of this city? All the world will answer, no! Then why despoil them of their property? Is it possible that the only mode of remedying a fault which our rulers have committed is to take this step at open variance with sound morality and public good faith? Is it not an actual prevarication when, without repeating the decree which established the Town of Refugio as the City of Matamoras, with its corresponding Ejidos, it should now be pretended, without any considerations of justice, to wrest them from its residents under frivolous pretences? Let it not be said that this is a wise political measure, that the Mexicans who are on the other side of the river, seeing themselves deprived of their possessions, may pass over to this side to continue under the auspices of so paternal a government. He who has once received a blow takes good care not to return for another. The same right that Mr. Treanor has in the Ejidos the other side of the river, the Girons and Portillas have in those on this side; and following up the same line of conduct which our rulers have adopted to conclude this business, we shall see the inhabitants of this city in a short time deprived of our properties, or at least dependent upon some individual. We cannot be made to believe that our Legislature can have reflected much in taking this step, since it has shown to the contrary in the little tact and great rashness which it has had in making a decree to be executed in a foreign country at an unsuitable time, at a time in which the lands have already been recognized and registered by their legitimate owners under the American authorities, who will not consent under any pretext to a speculation in the lands of that country to other owners, and retard in that way its agriculture, population, and commerce.

VARIOUS CITIZENS.

Title and date of the newspaper containing the above article:

El bien Publico,

A weekly political journal of the town.

It is not only a right, it is a duty, a strict obligation of every one who has an idea, to produce it and give it to the world for the common good.—*P. L. Courier.*

Vol. I. Matamoras, November 13 of 1848. Numb. 6.

Translation.

Your Excellency: The committee that this Ayuntamiento appointed to collect data, and to report the form of the answer which your excellency desires in the foregoing supreme decree, presented in the ordinary session on yesterday the following report: "Very Illustrious Ayuntamiento: Don Juan Treanor, representing his father-in-law, Don Rafael Garcia Cavazos, presented to the Government of the State, on the seventh of the present month, a petition, asking, as he says, protection against the proceedings that your Honorable body is taking, to the prejudice of the interests of his principal, in violation of the constitution and laws, and to the injury of truth, in attempting to dispose of certain lands as *proprios* which are the exclusive property of the party whom he represents, under the pretext undoubtedly that these lands may be considered Ejidos. The executive, in his order of the same date, ordered the said petition to be communicated to your Honorable Body that you might report to him about its subject, and that meanwhile the alienation of the land referred to should be suspended: and your honorable body has been pleased to order to comply with the order of the government above mentioned, to appoint the undersigned as a committee to furnish a report upon the subject, which duty we now fulfil with truth and sincerity. From the time that this settlement was raised from its humble name of Congregation del Refugio to the rank of the town and afterwards city of Matamoras, by the decree of the Honorable Congress of this State, its corresponding Ejidos were assigned and granted to it as to all places of its class, and though it is an undoubted fact that the said Ejidos were not previously paid for (no se indemnizaron previamente) as the constitution and the laws provide, the illustrious corporation did not on this account enter immediately into the possession of them, as well because this was proper for the interests of the community as because the Supreme Government of the State expressly so decided, leaving to the individuals who believed they had a right to the lands that had been granted as Ejidos to this city, a free right to apply to the government itself to establish it, and obtain the corresponding compensation for them. If the parties interested have not applied to the government, notwithstanding having been cited for this purpose, the fault is theirs, and it can only injure them and not the Illustrious Ayuntamiento that has so long been in quiet and peaceable possession, giving labors even to the very persons who call themselves the owners of them, in consequence of their having demanded and applied for them in due form. Not a single instance can be cited in which the right which the Illustrious Ayuntamiento has, and always exercised, to grant all the vacant lands within the limits of their Ejidos, which consist of four square leagues, one upon each cardinal point, [por cada rumbo,] has been disputed or not recognized by any individual, so that even supposing that Don Juan Treanor, or even his father-in-law, has a right to any part of the Ejidos granted to this city, he cannot on that account embarrass what the Illustrious Ayuntamiento incontestably possess as belonging to its Ejidos, without having recourse to the government to establish by his title deeds what part has been taken

from him for Ejidos, in order to be indemnified agreeably to the laws. In respect to the alienation of the Ejidos, of which Don Juan Treanor also complains, all that has been done upon this point is that a proposition having been made by a private citizen of this city to purchase the part of the Ejidos situated on the other side of the Rio Bravo, your Honorable body requested the opinion of the executive whether it could make the said sale under the idea that the Illustrious Ayuntamiento would always meet with difficulties in retaining possession of it, and that the most suitable course would be to sell it in order to prevent difficulties and questions that sometimes might be dangerous on account of their arising between nation and nation. For these reasons, and for others that cannot escape the penetration of your Honorable body, the committee is of the opinion that in returning the answer that the Supreme Government of the State requests as to the subject of the petition presented by Don Juan Treanor, it would be proper to state, first: that the Illustrious Ayuntamiento of this city is and has always been in the quiet and peaceable possession of the lands that have been granted to them as Ejidos. Second: that the individuals who consider that they have a right to these lands have always had a free right of action to have recourse to the Government, and they have been cited to appear to establish the portion of the lands that have been taken from them as Ejidos, in order to be duly indemnified. Third: that the sale of a portion of the Ejidos situated on the other side of the Bio Bravo or in Texas, which has been proposed by the Illustrious corporation, is not only proper but even necessary, on account of the many reasons which are obvious, and that his excellency will be pleased to consent to it notwithstanding the application of Senor Treanor and others that may be made with the same intention. Council Chamber of the illustrious Ayuntamiento of Matamoras, September 25, 1848. Ch'les J. Galbert. B'me Passmant. And the three points with which this concludes having been approved by the corporation, I have the honor to send your excellency a copy of the whole, thus fulfilling the duty imposed upon me. Municipal Hall of the Illustrious Ayuntamiento of Matamoras, September 26, 1848. ANDRES DE SALDANA, President in turn. Joaquin Argüelles, Secretary.

This is a faithful copy of the original, which is included in the proceedings placed among the archives of this office of the Secretary, from which it is copied by order of his excellency the Governor, and at the request of the interested party, on this sheet of paper of the fifth seal, this the twenty-eighth day of February, one thousand eight hundred and forty-nine. The citizens Andres Guerrero, Francisco de Paula Fernandez, and Dalio Balandrano, here resident and present, being witnesses.

For want of a Secretary,

RUFINO RODRIGUEZ,
Chief Clerk.

The undersigned certify that Rufino Rodriguez, by whom the foregoing document is authorized, is chief clerk in the Secretary's office

of the Government of the State ; and that at the present time he is discharging the duties of secretary, and that on this account entire faith and credence has been and is now given to whatever he authorizes, and that this may appear, we give the present certificate in the city of Victoria of Tamaulipas, on the first of March, one thousand eight hundred and forty-nine.

ANT'O TIM'Z VALDEZ,
Not. Pub.
CIP'O GUERRERO,
Not. Pub.

Translation.

REYNOSA, April 4th, eighteen hundred and fifty.

Having taken the depositions of the witnesses who are in this city, and having certain information that the other citizens mentioned in the interrogatory are at the present time out of my jurisdiction ; observing that the deposition required from the citizen Manuel de la Vina, who is at present judge, is alone wanting, and that to give his deposition it is necessary to do so before another judge who may administer the oath to him, I therefore order that the present proceeding for the sole purpose of taking the said deposition pass to the third constitutional court, the second judge having been suspended from his functions for a time by order of the government, and let the applicants be notified of this order for their information. I, the judge of the first instance, so order and sign with my assisting witnesses, with whom I act in the form aforesaid for want of a notary public, which I certify.

MANUEL DE LA VINA.

Thereafter, in accordance with the previous citation, appeared William G. Hale and John Treanor, and I notified them in their proper persons, which I certify I know, of the foregoing order, and having understood its tenor, they said that they hear it and sign with me, together with my assisting witnesses, which I certify.

MANUEL DE LA VINA.

WILLIAM G. HALE.

JUAN TREANOR.

These proceedings passed to the third court, as is directed in the order of this date, which I certify and sign with my rubric.

[A Rubric.]

REYNOSA, April fourth, eighteen hundred and fifty.

Let what is directed in the order of this date of the judge of the first instance be complied with, and for this purpose let Don Manuel de la Vina be cited in order to take his deposition. I, the citizen Juan José Cavazos Benavides, third constitutional alcalde of this town and its

jurisdiction, so order and sign, with my assisting witnesses, for want of a notary public. I certify.

Asst. wit.

CRISTOVAL LEAL.

Asst. wit.

MAN'L CAVAZOS G'RRRA.

Immediately thereafter, the citation referred to in my foregoing order was served. In testimony whereof, I make this note and my rubric.

In the town of Reynosa, on the fourth day of the month of April, one thousand eight hundred and fifty, before me, the third constitutional judge, appeared in my court Don Manuel de la Vina, and I administered to him in his proper person, which I certify I know, the oath in due form of law, upon which he declared he would state the truth as to what he might know and should be asked; and having been interrogated in conformity to the interrogatories addressed to him:

To the first interrogatory he said: That he knows by sight Don Rafael Garcia Cavazos and Dona Estafana Gozeascochea de Cortina, but he has not the honor of knowing Dona Maria Josefa Cavazos, wife of Don Rafael Garcia; that he also knows Charles Stillman and Maria Angela Garcia Safen de Tarneva; he knows also Don Ramon Safen, the younger; Don Manuel Prieto; but does not know the other persons mentioned in the interrogatory.

To the 16th interrogatory he said: That the document presented to him, marked with the letters *FF*, and authorized by Don José Leal de Leon, is the same that he was always accustomed to use during his life, and that when he wrote it he was first constitutional alcalde of this town; that the said Leal de Leon died some time since, but that is really and truly his signature.

To the 17th interrogatory he said: That the signature which appears at the end of the document presented to him is that of deponent, as assisting witness of the judge who authorized the said copy, and for this reason it is a copy faithfully and legally taken from the original.

To the 18th interrogatory he said: That he knew by sight Dona Francisca Cavazos, and was acquainted with Dona Ignacia Cavazos by intercourse and intimacy, and knows, beyond the possibility of a doubt, that they were legitimate sisters.

To the 19th interrogatory he said: That he does not know the place or rancho that Dona Francisca had, but that he knows that the land of the aforesaid lady extended from the left bank of the Rio Bravo, opposite Matamoras; that the distance from that city to the land of the aforesaid lady is, he thinks, a little more than a quarter of a league, and that he knows this by public reputation and *forme*.

To the 20th interrogatory he said: That he knows that Dona Francisca Cavazos maintained a suit against the ayuntamiento of Matamoras, because that body claimed, and, in fact, succeeded in taking from her a tract of land for Ejido, in that town; that he likewise knows that she resisted even the orders of the government. * * *

To the 23d interrogatory he said: That with relation to the controversy he has already answered, and what he might state in addition is of little interest; on which account, his deposition having been read to him, he said that it was the same which he had stated; that he is forty-eight years of age, married, by occupation a farmer, and of the Roman Catholic Apostolic religion, which he signed with me and my assisting witnesses, as is the law. I certify.

JUAN JOSÉ CAVAZOS BENAVIDES.
MANUEL DE LA VINA.

Ass. wit.
CRISTOVAL LEAL.

Ass. wit.
MANUEL CAVAZOS GUERRA.

On this day the deposition for which these proceedings were passed to me having been taken, let them be returned to the court of the first instance for the proper purposes, which I certify and sign with my rubric.

[A Rubric.]

REYNOSA, *April 4, 1850.*

In consideration of the depositions which precede and are now completed, I order that not only the interrogatories in connexion with the letter rogatory of the court of the United States for which the aforesaid proceeding has been had should be marked with my rubric, but also the copies of the will of the deceased Don Blas Maria de la Garza, noting the number of the leaves, for its formal delivery, so that it may have public credence. I, the citizen Manuel de la Vina, judge of the first instance, so order and sign, together with my assisting witnesses, which I certify.

MANUEL DE LA VINA.

Ass. wit.
CRISTOVAL LEAL.

Ass. wit.
MANUEL CAVAZOS G'RRRA.

Thereafter these proceedings were delivered to the parties interested on forty-one legal leaves; for proof whereof, I make this note and my rubric.

[A Rubric.]

On the envelope.

[To the District Court of the United States for the District of Texas.]

From the Court of the First Instance of the town of Reynosa.

Proceedings between Don Rafael Garcia Cavazos and others and Charles Stillman and others.

I certify the foregoing to be a correct translation of the original, made under the order of the court.

WILLIAM G. HALE.

No. 11.

*Deposition of Budd H. Fry, and exhibits accompanying same, from
1 to 27, inclusive.*

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

[Objections.]

The defendants, Belden, Stillman, and Mussina, having offered to read the deposition of Budd H. Fry, and the papers referred to therein, numbered from 1 to 27, inclusive, and purporting to be title recorded in the office of the county clerk of Cameron county, the complainants objected to the introduction or admission of such papers in evidence at the hearing, because—

1st. Their execution was not proved by the subscribing witnesses, nor by proof of their handwriting, or the handwriting of the grantors.

2d. No notice of the filing of such papers had been given to the complainants three days before the hearing of the cause.

3d. The papers were not so authenticated or proved as to authorize them to be recorded, or to make them evidence in this cause.

4th. They were irrelevant and incompetent, and did not tend to prove the issues and allegations in the answers of the defendants.

But these objections were overruled, except the last, which was reserved until the argument of the cause, and the deposition and papers aforesaid were admitted in evidence.

JAMES LOVE, *Clerk.*

[Commission.]

The President of the United States to James H. Reynolds, greeting :

Know ye that I, in consequence of your prudence and fidelity, have appointed and do by these presents give unto you full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be delivered to you in a cause now depending and at issue in chancery, in the district court of the United States for the district of Texas, wherein Don Rafael Garcia Cava-zos and others are complainants, and Charles Stillman and others are defendants ; and therefore I command you that you do, at certain days and places to be appointed for that purpose, cause the witnesses named in the title to said interrogatories, or such of them as shall be delivered to you, to come before you, and then and there examine them apart upon the said interrogatories, either upon their respective corporal oaths, first taken before you on the Holy Evangelists, or, in case of Quakers, upon their solemn affirmation and declaration, or in such other solemn manner as is or may be authorized by law, and that you do take such their examination and reduce them into writing ; and when you shall have so taken them, you are to send

the same to the Clerk of the above named Court without delay, whatsoever it shall be, closed up, and under your seal distinctly and plainly set, together with the said Interrogatories and this writ. And I further command you that, before you act in, or be present at the swearing, or examining any witnesses, you do take and subscribe the oath specified in the schedule hereunto annexed, before a Commissioner of the United States, or a Judge of some Court of Record.

Witness the Honorable John C. Watrous, Judge of said Court, this second day of November, in the year of our Lord one thousand eight hundred and fifty, and of the Independence of the United States of America the 75th year.

[L. s.]

JAMES LOVE, *Clerk.*

[Deposition.]

Budd H. Fry, of the City of Brownsville, in the County of Cameron, in the State of Texas aforesaid, deputy Clerk for the County of Cameron, State aforesaid, aged forty-five years, a witness produced, sworn and examined on the part of the Defendants, Charles Stillman, Samuel A. Belden, and Jacob Mussina, depose and saith as follows:

Answer to first interrogatory: I know none of the Complainants; of the Defendants I know Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Ramon Safen; the others I do not know.

Answer to second interrogatory: I do. The office of Deputy Clerk of the County Court, under Francis W. Latham, Clerk of said Court. I have been in discharge of the duties of said office since the nineteenth day of August last past. I have the custody and control of the records of said Court. All of the said deeds or instruments of writing now presented to me have been by me examined and compared with the Records of the County Court as aforesaid, numbered and marked from No. 1 to No. 27, inclusive, by me, and all and every one of them in my aforesaid office, and said office is the proper office for the recording of such like instruments.

Deed No. 1 was recorded on the sixth day of February, A. D. one thousand eight hundred and forty-nine (1849.)

Deed No. 2 was recorded February the twelfth, A. D. one thousand eight hundred and forty-nine (1849.)

Deed No. 3 was recorded on the fifteenth day of June, A. D. one thousand eight hundred and forty-nine (1849.)

Deed No. 4 was recorded on the thirteenth day of November, A. D. one thousand eight hundred and forty-eight (1848.)

Deed No. 5 was recorded on the thirteenth day of November, A. D. one thousand eight hundred and forty-eight (1848.)

Deed No. 6 was recorded February the sixteenth, A. D. one thousand eight hundred and forty-nine (1849.)

Deed No. 7 was recorded on the sixteenth day of October, A. D. one thousand eight hundred and forty-eight (1848.)

Deed No. 8 was recorded on the thirteenth day of January, A. D. one thousand eight hundred and forty-nine (1849.)

Deed No. 9 was recorded on the twentieth day of January, A. D. one thousand eight hundred and fifty (1850.)

Deed No. 10 was recorded on the twentieth day of December, A. D. one thousand eight hundred and fifty (1850.)

Deed No. 11 was recorded on the twentieth day of December, A. D. one thousand eight hundred and fifty (1850.)

Deed No. 12 was recorded on the twentieth day of December, A. D. one thousand eight hundred and fifty (1850.)

Deed No. 13 was recorded on the twentieth day of December, A. D. one thousand eight hundred and fifty (1850.)

Deed No. 14 was recorded on the twentieth day of December, A. D. one thousand eight hundred and fifty (1850.)

Deed No. 15 was recorded on the twentieth day of December, A. D. one thousand eight hundred and fifty (1850.)

Deed No. 16 was recorded on the twentieth day of December, A. D. one thousand eight hundred and fifty (1850.)

Deed No. 17 was recorded on the twentieth day of December, A. D. one thousand eight hundred and fifty (1850.)

Deed No. 18 was recorded on the twentieth day of December, A. D. one thousand eight hundred and fifty (1850.)

Deed No. 19 was recorded on the sixteenth day of October, A. D. one thousand eight hundred and forty-eight (1848.)

Deed No. 20 was recorded on the twentieth day of November, A. D. one thousand eight hundred and forty-eight (1848.)

Deed No. 21 was recorded on the thirteenth day of November, A. D. one thousand eight hundred and forty-eight (1848.)

Deed No. 22 was recorded on the fourteenth day of October, A. D. one thousand eight hundred and forty-eight (1848.)

Deed No. 23 was recorded on the seventeenth day of October, A. D. one thousand eight hundred and forty-eight (1848.)

Deed No. 24 was recorded on the fourth day of February, A. D. one thousand eight hundred and forty-nine.

Deed No. 25 was recorded on the eighteenth day of October, A. D. one thousand eight hundred and forty-eight.

Deed No. 26 was recorded on the seventeenth day of October, A. D. one thousand eight hundred and forty-eight.

And Deed No. 27 was recorded on the twentieth day of December, A. D. one thousand eight hundred and fifty.

As the same appear by comparing the same with the aforesaid records.

Answer to fourth interrogatory: I have in my answer to third interrogatory designated and described said deeds or instruments. They all relate to the lands known as the "Exidos" of Matamoras, purporting to be conveyances of the same.

Answer to fifth and last interrogatory. I cannot, nor do I, know aught of the subject-matter in controversy in this suit.

BUDD H. FRY.

J. N. REYNOLDS,

Com.

Exhibit 1.

THE STATE OF TEXAS,
County of Cameron.

This indenture, made the thirtieth day of January, A. D. one thousand eight hundred and forty-nine, between Francisco Fragoso, of the first part, and Charles Stillman, Samuel A. Belden, citizens of the county of Cameron and State of Texas aforesaid, and Jacob Mussina, a citizen of the city of New Orleans, in the State of Louisiana, of the second part, witnesseth: That the said Francisco Fragoso, party of the first part hereto, for and in consideration of the sum of two hundred dollars, lawful money, to him in hand paid by the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, before the reading and delivery thereof, the receipt whereof is hereby acknowledged, and for the further consideration of three hundred dollars, lawful money, hereby covenanted by the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, by them to be paid unto the said party of the first part, his heirs or assignees, in three equal instalments, as follows, to wit: the first instalment to be paid at the expiration of six months, the second instalment to be paid at the expiration of twelve months, and the third and last instalment to be paid at the expiration of eighteen months, to be computed from the execution of this deed, subject, however, to the condition hereafter to be expressed, hath granted, bargained, sold, aliened, released, and confirmed, and by these presents doth grant, bargain, sell, alien, release, confirm, and deliver to the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, their heirs, executors, administrators, and assigns, all those certain tracts, parcels, and labors, lying and situate in the county of Cameron and State of Texas aforesaid, embraced in what is termed the "Exidos" of the city of Matamoras, on the left bank of the Rio Grande, and granted by the honorable ayuntamiento of the city of Matamoras, as hereinafter mentioned, and as by map and survey made by George Lyon, deputy surveyor of the said land district of San Patricio and Nueces, described as follows: 1st. A certain tract, parcel, or labor of land, granted to Francisco Fragoso by the honorable ayuntamiento of the city of Matamoras, beginning at the N. E. corner of a labor granted to Catarina Vela; thence with the dividing line of the said Vela and Fragosa N. 37° W. 180 varas, N. $49\frac{1}{2}^{\circ}$ W. 92 varas to the line of Onofre Rebalcaba; thence with the dividing line of the said Rebalcaba and Fragosa N. 2° E. 230 varas, N. 1° W. 155 varas to the line of public lands. Thence with the dividing line of public lands and Fragoso, S. 89° E. 60 varas, S. $66^{\circ} 30'$ E. 116 varas, S. $59^{\circ} 45'$ E. 278 varas, S. $26^{\circ} 30'$ W. 250 varas, S. 32° W. at 96 varas passed the N. W. corner of a labor granted to Roderigo Inojosa 210 varas to the place of beginning, containing twenty-four $\frac{97}{100}$ ($24\frac{97}{100}$) acres of land, situated on the N. E. side of the Rio Grande, within the town of Brownsville. And also another tract, parcel, or labor of land, granted by the honorable ayuntamiento of the city of Matamoras aforesaid, to Roderigo Inojoso, beginning at the S. E. corner of a grant made to Catarina Vela, being the common

corners of the labors granted to Catarina Vela and Roderigo Inojoso and Doroteo Famora; thence with the remains of the dividing fence of the said Roderigo Inojoso, south 6 varas, N. $79^{\circ} 15'$ E. 530 varas, N. $24^{\circ} 15'$ W. 100 varas, N. 5° W. 68 varas, N. $71^{\circ} 30'$ E. 110 varas, N. 83° E. 45 varas, N. $30^{\circ} 15'$ E. 256 varas, N. $71^{\circ} 30'$ W. 10 varas, S. $81^{\circ} 30'$ W. 220 varas, S. $83^{\circ} 30'$ W. 150 varas, S. $82^{\circ} 45'$ W. 125 varas to the labor granted to Francisco Fragoso; thence with the remains of the dividing fence of the said Fragoso and Inojoso S. 32° W. 114 varas to the N. E. corner of a labor granted to Catarina Vela; thence with the dividing fence of the said Inojoso and Vela S. $34^{\circ} 45'$ W. 169 varas, S. $34^{\circ} 15'$ W. 200 varas, S. $16^{\circ} 30'$ W. 45 varas, S. 82° W. 14 varas to the place of beginning, containing thirty-four $\frac{11}{100}$ ($34\frac{11}{100}$) acres of land, both of which said labors are situated within the town of Brownsville, in the State of Texas and county of Cameron as aforesaid; together with all and singular the improvements, tenements, rights, hereditaments, and profits thereto belonging or in anywise appertaining, to have and to hold the said several tracts, parcels, or labors of land, with the rights, hereditaments hereby granted, mentioned or intended to be mentioned, with all and singular the appurtenances thereof, to the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, their heirs and assigns forever; subject, however, to the payment of the said stipulated instalments herein conditioned to be paid. And the said Francisco Fragoso, for himself, his heirs, and legal representatives, doth covenant with the said Stillman, Belden, and Mussina, their heirs and legal representatives, that the said Francisco Fragoso is now well and lawfully seized and possessed of all and each of the said labors or parcels of land herein granted by regular chain and sufficient transfers of title from the ayuntamiento of the city of Matamoras, all of which transfers are hereby passed and made a part of this conveyance. And the said Francisco Fragoso further covenants, for himself, his heirs, and his legal representatives, to warrant and defend forever unto the said Stillman, Belden, and Mussina, their heirs and legal representatives, all and singular the said granted premises, with all and singular the rights appurtenant thereto, against all persons claiming under, by, or through him; and the said Francisco Fragoso further covenants, for himself, his heirs, and legal representatives, to make, do, execute, and perform, or cause to be done, executed, and performed, all and every act or acts, and conveyance or transfer of title, which may be necessary in form or essence fully to perfect and assure to the said Stillman, Belden, and Mussina, their heirs and assigns, a perfect and complete chain of title of and to the said described lands, from the original grantees of the honorable ayuntamiento of Matamoras. It is, however, distinctly understood that the said Francisco Fragoso grants and conveys herein to the said parties of the second part the before described lands only to the extent of the interest by the honorable ayuntamiento passed or granted. And the said Charles Stillman, Samuel A. Belden, and Jacob Mussina hereby covenant for themselves, their heirs and assigns, well and truly to pay unto the said Francisco Fragoso, his heirs and assigns, the said several instalments or sums of money at the several times herein conditioned. And it is further covenanted and

agreed by the said Francisco Fragoso that in case of failure on his part or his heirs or legal representatives to produce, furnish, and assure to the said parties of the second part, their heirs and legal representatives, perfect and complete transfers and chain of title to all and each of said labors hereinbefore described, then and in that event the said parties of the second part may deduct from the payments herein conditioned by them to be made such sum or sums as may be the equal proportion and relative value of the said parcels of land so failed to be conveyed, and titles perfected as compared with the whole or two tracts conveyed. As witness whereof, the said several parties hereto have hereunto signed their names and affixed their several seals, using scrolls for seals, on the day and year before written. Signed, sealed, and delivered.

[SCROLL.]

FRAN'CO FRAGOSO,
(Rubrica.)

[SCROLL.]

JACOB MUSSINA,
p. per SIMON MUSSINA.
CHARLES STILLMAN,

[SCROLL.]

per per SAM'L A. BELDEN.

[SCROLL.]

SAM. A. BELDEN.

B. GRIMA.

R. H. HORD.

Interlined before signing with the words (and complete chain) of title. Witness,

THOS. STANSBURY.

THE STATE OF TEXAS,

County of Cameron.

On this 30th day of January, A. D. 1849, before me, personally came Francisco Fragoso, to me known to be one of the individuals described in and who executed the within conveyance, and acknowledged that he executed the same.

Given under my hand and the seal of my office as clerk of the county court of Cameron county and State of Texas.

[SEAL.]

JHOS. J. STANSBURY,

C. C. C. C.

STATE OF TEXAS,

County of Cameron.

On this 30th day of January, A. D. 1849, before me, personally came Samuel A. Belden, known to me to be one of the individuals described in and who executed the above indenture, and acknowledged that he executed the same for himself and for Charles Stillman, as therein described, by virtue of a power of attorney duly executed by the said Charles Stillman, bearing date 10th December, 1848, recorded in the office of the county clerk of Cameron county, State of Texas, in Book A, page 216.

As witness my hand and the seal of my office as county clerk of said county.

[SEAL.]

THOS. J. STANSBURY.

THE STATE OF TEXAS,
County of Cameron.

On this 30th day of January, A. D. 1849, before me, personally came Simon Mussina, known to me to be the person described in and who executed the above indenture, and acknowledged the same as the act and deed of Jacob Mussina, therein described. By virtue of a power of attorney, duly executed by the said Jacob Mussina, bearing date 28th day of February, one thousand eight hundred and forty-six, recorded in the clerk's office of the county of Cameron, Texas, in Book A, page 153, on the 29th day of November, 1848.

As witness my hand and the seal of my office as clerk of the county court of Cameron county, State of Texas.

[SEAL.]

THOS. J. STANSBURY.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et als.*, plaintiffs,
and
CHARLES STILLMAN *et als.*, defendants.

Twenty-fourth December, 1850, at the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto, at the time of his examination on the defendants' behalf, before me,

J. N. REYNOLDS,
Commissioner.

Exhibit 2.

THE STATE OF TEXAS,
County of Cameron.

This indenture, made the thirtieth day of January, A. D. one thousand eight hundred and forty-nine, between Manuel Trevino Canales, *alias* Manuel Trevino, of the first part, and Charles Stillman and Samuel A. Belden, citizens of the county of Cameron and State of Texas, aforesaid, and Jacob Mussina, a citizen of the city of New Orleans, in the State of Louisiana, of the second part, witnesseth: That the said Manuel Trevino Canales, party of the first part hereto, for and in consideration of the sum of eight hundred dollars, lawful money, to him in hand paid by the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, and for the further consideration of three thousand and two hundred dollars, lawful money, hereby covenanted by the said Charles Stillman, Samuel A. Belden and Jacob Mussina, by them to be paid unto the said party of the first part, his heirs or assigns, in three equal instalments, as follows, to wit: the first instalment to be paid at the expiration of six months; the second instalment to be paid at the expiration of twelve months; and

the third and final instalment to be paid at the expiration of eighteen months, to be computed from the execution of this deed, subject, however, to the condition hereafter expressed, hath granted, bargained, sold, aliened, released, and confirmed, and by these presents doth grant, bargain, sell, alien, release, confirm and deliver to the said Charles Stillman, Samuel A. Belden and Jacob Mussina, their heirs, executors, administrators and assigns, all those certain six tracts, parcels, and labors of land, lying and situate in the county of Cameron and State of Texas aforesaid, embraced within what is termed the "Exidos" of the city of Matamoras, on the left bank of the Rio Grande, and granted by the Ayuntamiento of the city of Matamoras, as hereinafter mentioned, and as by map and survey made by George Lyon, deputy surveyor of the land district of San Patricio and Nueces, described as follows: 1st. A certain labor or tract of land granted by the Hon. Ayuntamiento, of the city of Matamoras, to Onofre Rebalcaba, beginning at the N. W. corner of a labor granted to Ignacio Flores; thence with the remains of the dividing fence of the labors granted to the said Manuel Trevino Canales and the said Rebalcaba, N. 37° W. 415 varas to the S. W. of a labor granted to Leandro Martinez. Thence with the dividing line of the said Martinez and Rebalcaba N. $64^{\circ} 30'$ E. 285 varas, N. $20^{\circ} 45'$ E. 60 varas, N. $87^{\circ} 15'$ E. 70 varas, N. $76^{\circ} 15'$ E. 40 varas, N. 20° W. 62 varas, N. $9^{\circ} 30'$ W. 50 varas, to the Resaca de las Homillas, (for the N. E. corner of the labor,) situated on the N. bank of the Resaca aforesaid. Thence with the remains of the dividing fence of the labor of the said Rebalcaba and the public lands N. $86^{\circ} 15'$ E. 170 varas, through the Resaca de las Homillas S. $32^{\circ} 30'$ E. 54 varas, to the south bank of the aforesaid Resaca S. $43^{\circ} 30'$ E. 300 vares, to the N. W. corner of a labor granted to Francisco Fragosa; thence with the dividing line of the said Fragosa and Rebalcaba S. 1° E. 155 varas, S. 2° W. 230 varas, to the N. W. corner of a labor granted to Catarina Vela; thence with the dividing fence of the said Vela and Rebalcaba, S. $46^{\circ} 45'$ W. 200 varas, S. 42° W. 198 varas, to the N. E. corner of a labor of the said Flores; thence with the dividing line of the said Flores and Rebalcaba N. $54^{\circ} 15'$ W. 270 varas, to the place of beginning, containing sixty-three $\frac{38}{100}$ acres ($63\frac{38}{100}$) of land, situated on the N. E. side of the Rio Grande, in the town of Brownsville, in the said county of Cameron and State of Texas.

2dly. Also, all that certain parcel, tract, or labor of land granted by the Honorable Ayuntamiento of the said city of Matamoras, to Leandro Martinez, beginning at the N. W. corner of a labor granted to Onofre Rebalcaba; thence with the dividing line of the said Rebalcaba and Martinez S. $9^{\circ} 30'$ E. 180 varas, 130 across a Resaca S. 20° E. 62 varas, S. $76^{\circ} 15'$ W. 40 varas, S. $87^{\circ} 30'$ W. 70 varas, S. $20^{\circ} 45'$ W. 60 varas, S. $64^{\circ} 30'$ W. 285 varas, to the S. W. boundary of a labor granted to Manuel Trevino Canales; thence with the said labor N. 37° W. 246 varas to public lands; thence with the dividing lines of the public lands and Martinez N. $45^{\circ} 45'$ E. 368 varas, to the southern bank of the Resaca de las Homillas; thence S. 86° E. 228 varas across the same, to the place of beginning, containing twenty-five $\frac{42}{100}$ acres ($25\frac{42}{100}$) of land, situated about half a mile north of Brownsville, in said county and State.

3dly. Also, all that certain tract, parcel and labor of land granted by the Honorable Ayuntamiento, of the said city of Matamoras, to Ignacio Flores, beginning at the S. W. corner of a labor granted to Catarina Vela; thence with the dividing line of the said Vela and Flores N. $3^{\circ} 45'$ E. 220 varas, N. 30° E. 120 varas, to the S. E. corner of a labor granted to Onofre Rebalca; thence with the dividing line of the said Rebalcaba and Flores N. $45^{\circ} 15'$ W. 270 varas, to the N. E. corner of a grant made to Manuel Trevino Canales; thence with the dividing line of the said Trevino, *alias* Canales and Flores, S. $22^{\circ} 45'$ W. 370 varas to a labor granted Garza; thence with the dividing line of said Garza and Flores S. $29^{\circ} 15'$ E. 149 varas to the bank of the Rio Grande, N. 70° E. 97 varas, S. 83° E. 100 varas to the place of beginning, containing twenty-one $\frac{22}{100}$ acres ($21\frac{22}{100}$) of land, situated on the N. E. side of the Rio Grande, within the town of Brownsville, in the county and State aforesaid.

4thly. Also, all that certain tract, parcel or labor of land granted by the Hon. the Ayuntamiento, of said city of Matamoras, to Catarina Vela, beginning on the bank of the Rio Grande, at the lower or S. E. corner of a labor of land granted to Ignacio Flores; thence with the remains of the dividing fence of the said Catarina Vela and Doratio Zamoro N. 80° E. 342 varas, to the S. W. corner of a labor granted to Roderigo Inojosa; thence with the remains of the dividing fence of Roderigo Inojosa and the said Catarina Vela N. 82° W. 14 varas, N. $16^{\circ} 30'$ E. 45 varas, N. $34^{\circ} 15'$ E. 200 varas, N. $34^{\circ} 45'$ E. 169 varas, to the S. E. corner of a labor granted to Francisco Fragosa; thence with the remains of the dividing fence of the said Fragosa and Vela N. 37° W. 180 varas, N. $49^{\circ} 30'$ W. 92 varas, to a corner of a labor granted to Onofre Rebalcaba; thence with the remains of the said dividing fence of the said Rebalcaba and Vela S. $46^{\circ} 45'$ W. 200 varas, S. 42° W. 198 varas to the N. E. corner of the labor granted to Flores as aforesaid; thence with the dividing line of the said Flores and Vela S. 30° W. 170 varas, S. $3^{\circ} 45'$ W. 220 varas, to the place of beginning, containing thirty-three $\frac{33}{100}$ ($33\frac{33}{100}$) acres of land, situated in the town of Brownsville, in said county and State.

5thly. Also, all that certain tract, parcel, and labor of land granted by the hon'ble ayuntamiento of the said city of Matamoras to Manuel Vela, being a peninsula or island, beginning S. 8° E. 135 varas, from the S. E. corner of a labor granted to Maguil Salinas, on the opposite or south side of the lake—the above corner being on the north side of said lake; thence with the meanders of said island S. $71^{\circ} 45'$ W. 90 varas, S. $50^{\circ} 30'$ W. 70 varas, S. $28^{\circ} 30'$ E. 150 varas, S. $65^{\circ} 45'$ E. 100 varas, N. $42^{\circ} 15'$ E. 20 varas, N. 50° W. 580 varas, N. $82^{\circ} 45'$ W. 100 varas, to the place of beginning, containing twenty-one $\frac{55}{100}$ ($21\frac{55}{100}$) acres of land, situated on the N. E. side of the Rio Grande, about one-half mile S. E. from the town of Brownsville, in said county and State.

6thly. And also all that certain tract, parcel, or labor of land granted by the said hon'ble ayuntamiento of the city of Matamoras to Manuel Trevino Canales, beginning at the common corners of the labors of Feliciano Garza, Ignacio Flores, and the said Manuel Tre-

vino Canales ; thence with the dividing line of the said Trevino and Flores N. $22^{\circ} 45'$ E. 370 varas, to the line of Onofre Rebalcaba ; thence with the dividing line of the said Trevino and Rebalcaba N. 37° W. 661 varas, to an old road leading to Point Isabel ; thence with the remains of an old fence by the side of said road S. $37^{\circ} 45'$ W. 20 varas, S. $16^{\circ} 30'$ W. 250 varas, S. $16^{\circ} 15'$ W. 566 varas, to the labor of the said Feliciano Garza ; thence with the dividing line of the said Trevino and Garza S. 85° E. 302 varas, S. $78^{\circ} 15'$ E. 195 varas, to the place of beginning, containing forty-seven $\frac{0.8}{100}$ ($47\frac{0.8}{100}$) acres of land, situated on the N. E. side of the Rio Grande, at or near the town of Brownsville, in the county and State before named, together with all and singular all improvements, tenements, rights, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, to have and to hold the said several tracts, parcels, or labors of land, with the rights, hereditaments, &c., hereby granted, or mentioned, or intended to be mentioned, with all and singular the appurtenances thereof, to the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, their heirs and assigns forever, subject, however, to the payment of the said stipulated instalments herein conditioned to be paid.

And the said Manuel Trevino Canales, for himself, his heirs, and legal representatives, doth covenant with the said Stillman, Belden, and Mussina, and their heirs and legal representatives, that he, the said Trevino, *alias* Canales, is now well and lawfully seized of all and each of the said granted tracts or labors of land, by regular chain or transfers of title from the hon'ble ayuntamiento of the city of Matamoras, all of which transfers are hereby passed and made a part of this conveyance : And the said Canales further covenants, for himself, his heirs, and legal representatives, to warrant and for ever defend unto the said Stillman, Belden, and Mussina, their heirs and legal representatives, all and singular the said granted premises, with all the rights appurtenant thereto, against the claim or claims of all persons claiming under, through, or by him : And the said Canales further covenants, for himself, his heirs, and legal representatives, to make, do, execute and perform, or cause to be done, made, executed, and performed, all and every act, or acts and conveyance, or transfers of title which may be necessary in form or essence fully to perfect and assure to the said Stillman, Belden, and Mussina, their heirs and assigns, a perfect title of and to the said described lands from the original grantees of the hon'ble ayuntamiento of Matamoras. It is, however, distinctly understood that the said Canales grants and conveys herein to the said parties of the second part the before described lands only to the extent of the interest by the hon'ble ayuntamiento passed or granted : And the said Charles Stillman, Samuel A. Belden, and Jacob Mussina hereby covenant, for themselves, their heirs and assigns, well and truly to pay unto the said Manuel Trevino, *alias* Canales, his heirs and assigns, the said several instalments or sums of money at the several times herein conditioned : And it is further covenanted and agreed by the said Manuel Trevino Canales, that in case of failure on his part, or his legal representatives, to produce, furnish, and assure to the said parties of the second part, their heirs or legal rep-

representatives, perfect and complete transfers of title to all and each of said labors herein before described, then and in that event the said parties of the second part may deduct from the payments herein conditioned by them to be made, such sum or sums as may be the equal proportion and relative value of the said parcels or parts of parcels of land so failed to be conveyed and titles perfected, as compared with the whole or six tracts conveyed.

As witness whereof, the said several parties hereto have hereunto signed their names and affixed their several seals, (using scrolls for seals,) on the day and year before written.

MANL. TREVINO,
CANALES, [SCRAWL.]

JACOB MUSSINA,
pr. pr. SIMON MUSSINA, [SCRAWL.]

CHARLES STILLMAN,
pr. pr. SAML. A. BELDEN, [SCRAWL.]

SAML. A. BELDEN, [SCRAWL.]

Signed, sealed, and delivered in the presence of—

B. GRIMA,
R. H. HORD.

Interlined before signing with the words, (*alias* Manuel Treviño,) (*varas*,) and the words erased (85° E. 502 varas S.,) as witness,
T. J. STANSBURY.

THE STATE OF TEXAS,
County of Cameron.

On this 30th day of January, A. D. 1849, before me, personally came Manuel Treviño Canales, to me known to be one of the individuals described in and who executed the above indenture, and acknowledged that he executed the same. As witness my hand and the seal of my office, as county clerk of Cameron, State aforesaid.

[SEAL.]

THOS. J. STANSBURY.

THE STATE OF TEXAS,
County of Cameron.

On this 30th day of January, A. D. 1849, before me, personally came Simon Mussina, known to me to be the same person described in and who executed the above indenture, and acknowledged that he executed the same, as the act and deed of Jacob Mussina, therein described, by virtue of a power of attorney, duly executed by the said Jacob Mussina, bearing date 28th day of February, 1846. Recorded in the clerk's office of the county of Cameron, State of Texas, in Book A, page 153, on the 27th day of November, 1848. As witness my hand and the seal of my office, as clerk of the county court of Cameron county, State of Texas.

[SEAL.]

THOS. J. STANSBURY.

THE STATE OF TEXAS,
County of Cameron.

On this the 30th day of January, A. D. 1849, before me, personally came Samuel A. Belden, known to me to be one of the individuals described in and who executed the annexed indenture, and acknowledged that he executed the same for himself and for Charles Stillman, as therein described, by virtue of a power of attorney, duly executed by the said Charles Stillman, bearing date 10th of December, 1848. Recorded in the office of the county clerk of Cameron county, State of Texas, in Book A, page 216. As witness my hand and the seal of my office, as county clerk of the said county.

[SEAL.]

THOS. J. STANSBURY.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et als.*, Plaintiffs.
and
CHARLES STILLMAN *et als.*, Defendants.

Twenty-fourth December, 1850.—At the execution of a commission for the examination of witnesses in this cause this paper writing was produced, and shown to Budd H. Fry, a witness, sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS, *Com.*

Exhibit 3.

THE STATE OF TEXAS,
County of Cameron.

Know all men by these presents, that I, O. F. Janes, of the county of Cameron, and State of Texas, for and in consideration of the sum of twenty-five hundred dollars, to me in hand paid by Charles Stillman and Samuel A. Belden, citizens of said county and State, and Jacob Mussina, citizen of the city of New Orleans, State of Louisiana, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, sell, alien, release, and confirm unto the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, all of those two several tracts, parcels, or labors of land, situated and lying in the county of Cameron and State of Texas aforesaid, embraced within what is termed the "Exidos" of the city of Matamoras, on the left bank of the Rio Grande, granted by the hon'ble ayuntamiento of the city of Matamoras, as presently mentioned, and the locality of which labors will more clearly appear by a reference to a map of labors of said "Exidos," adjacent and surrounding the town of Brownsville, surveyed and made by George Lyon, deputy surveyor of the land district of San Patricio and Nueces, and described as follows, to wit:

1st. One certain tract or labor of land granted by said hon'ble ayuntamiento, of the city of Matamoras, to Maximo Sierra, on the

nineteenth day of April, A. D. 1834, described in said original grant, as bounded on the east by the labor, Mazario Garza, on the west by the River *Del Norte*, on the north by the labor of Felipe Gloria, and south by the labor of Nicolas Cabazos, beginning (as by recent survey of George Lyon, surveyor as aforesaid) on the east or left bank of the Rio Grande, being the northwest corner of a labor of land granted to Nicolas Cabazos; thence up with the meanders of the said river, N. 30° E. 262 varas to the S. W. or lower corner of a labor of land granted to Felipe Gloria; thence with the fence or dividing line of the said Felipe Gloria and Maximo Sierra, N. 73° E. 80 varas, N. $70^{\circ} 30'$ E. 70 varas, N. 61° E. 90 varas, N. $53^{\circ} 30'$ E. 70 varas, N. 73° E. 30 varas, to the junction of the fences between said Sierra and said Garza; thence with the said fence (being the dividing line of the labors of the said Maximo Sierra and Marzario Garza) S. 17° E. 327 varas, to a road dividing the labors of said Sierra and Falcon; thence with the said road S. $62^{\circ} 30'$ W. 230 varas, to a fence dividing the labors of said Sierra and Nicolas Cabazos; thence N. 55° W. 50 varas, N. 69° W. 70 varas, S. 61° W. 55 varas, N. $82^{\circ} 30'$ W. 176 varas, to the place of beginning, containing twenty-two and $\frac{5}{8}$ acres of land, situated on the N. E. side or left bank of the Rio Bravo del Norte, above and adjoining the town of Freeport, and which was transferred in due form by said Sierra on the 23d day of January, A. D. 1837, to Catarina Vela, and by her transferred, on the 17th day of June, 1848, to Juan Galan, and by said Galan transferred, on the 29th day of June, A. D. 1848, to this vendor.

2dly. Also, all that certain tract, parcel, or labor of land granted by the aforesaid Ayuntamiento, on the *on the* twelfth day of April, A. D. eighteen hundred and thirty-four, (1834,) to Mazacio Garza, and by the said Mazacio Garza transferred to this vendor by a deed bearing date on the 5th day of July, one thousand eight hundred and forty-eight, beginning at the N. E. corner of a labor of land granted by the aforesaid Ayuntamiento to Maximo Sierra; thence up with a fence and road, N. 39° E. 160 varas, N. 17° E. 390 varas, N. 5° E. 45 varas, to a labor granted to Felipe Gloria; thence with the dividing fence of the said Felipe Gloria, N. $83^{\circ} 45'$ W. 255 varas, S. 7° W. 70 varas, S. 17° W. 210 varas, to a fence, being the dividing line of the labors granted to Maximo Sierra and Mazario Garza; thence with the fence aforesaid, S. 17° E. 327 varas, to the place of beginning, containing twenty-one and $\frac{2}{10}$ acres of land, situated on the N. E. side of the "Bravo del Norte," or "Rio Grande," about seven hundred varas N. W. of the town of Freeport, in the said county and State, saving, reserving, and excepting, however, out of the said or last described labor, the following lots, tracts, or pieces of land, to wit: 1st. One tract or piece of land, beginning at the N. W. corner of a labor, in the name of Mazario Garza, being the N. W. corner of a block known as No. 3, on a map made and surveyed by C. Dupony for me, the said O. F. Janes; thence with the north boundary of said block, S. $83^{\circ} 45'$ E. 70 varas, to N. E. corner of the block aforesaid; thence S. $6^{\circ} 15'$ W. 35 varas, to place of beginning.

2d. Also, another lot or piece of land, being the north half of block No. 2, as on aforesaid map, beginning S. $83^{\circ} 15'$ E. 13 varas from

the N. E. corner of said block No. 3 ; thence with its north boundary S. $83^{\circ} 45'$ E. 70 varas ; thence S. $6^{\circ} 15'$ W. 35 varas ; thence N. $83^{\circ} 45'$ W. 70 varas ; thence N. $6^{\circ} 15'$ E. 35 varas, to the place of beginning ; also

3d. Another or third lot or piece of land, being the north half of block No. 1, as upon the said map, beginning 13 varas S. $83^{\circ} 45'$ E., 13 varas from the N. E. corner of block No. 2 ; thence with its north boundary S. $83^{\circ} 45'$ E. 70 varas ; thence S. $6^{\circ} 15'$ W. 35 varas ; thence N. $83^{\circ} 45'$ W. 70 varas ; thence N. $6^{\circ} 15'$ E. 35 varas, to place of beginning ; together with all and singular the improvements, the rights, members, hereditaments, and appurtenances to the same belonging, or in anywise appertaining or incident, to have and to hold all and singular the before granted premises, unto the said Charles Stillman, Samuel A. Belden, and Jacob Mussina, their heirs and assigns forever, hereby making the transfer and chain of title a part of this deed ; and I do hereby bind myself, my heirs, executors, administrators, and assigns, to warrant and forever defend all and singular the said granted premises to the aforesaid Charles Stillman, Samuel A. Belden, and Jacob Mussina, their heirs, executors, administrators, and assigns forever against all persons whatsoever claiming the same. Witness my hand and seal (using a scroll for a seal) this the day of May, A. D. eighteen hundred and forty-nine.

Signed, sealed, and delivered in presence of—

O. F. JANES. [L. s.]

On page 2, between lines 9 and 10, the words " Juan Galan, and by said Galan transferred on the 29th day of June, A. D. 1848, to " are interlined. On third page, between 2 and 3 line, the words 13 varas are interlined. Signed, sealed, and delivered in presence of—

J. B. BIGELOW, [L. s.]

JOHN L. McCAY,

THOMAS BLEWEIT.

THE STATE OF TEXAS,
County of Cameron.

Before me, Russell Howard, a notary public in and for the county and State aforesaid, duly commissioned and qualified, this day personally appeared J. B. Bigelow, to me personally and well known, who, being by me duly sworn, deposed and said : That he saw O. F. Janes, whom he knows to be the person described in and who executed the within instrument of writing, sign, seal, and deliver the same, and acknowledge that it was his act and deed for the purposes and consideration therein set forth ; and that he (deponent) and John S. McCay and Thomas Blewett thereupon signed the same as subscribing witnesses, at the request of the grantor.

In testimony, whereof I have hereunto set my hand and seal of office, [SEAL.] at Brownsville, this 30th day of May, A. D. 1849.

RUSSELL HOWARD,

Notary Public, Cameron County, Texas.

THE STATE OF TEXAS,
County of Cameron.

I, the undersigned clerk of the county court in and for the county of Cameron, State aforesaid, do hereby certify that the within instrument of writing was filed for record in my office on the 30th day of May, 1849, at 2 o'clock p. m., and was duly recorded in record book B, pages 128, and 129, on this 5th day of June, A. D. 1849.

Witness my hand and seal of office.

[SEAL]

J. J. H. GRAMMONT,
Clerk C. Court, C. Co.

In Chancery.

Between

RAFAEL GARCIA CAVAZOS *et als.*, plaintiffs, }
and
CHARLES STILLMAN *et als.*, defendants. }

Twenty-fourth December, 1850. At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf. Before me

J'S N. REYNOLDS, Com.

Exhibit 4.

STATE OF TEXAS,
Cameron County.

Know all men by these presents that I, Juan Galan, of Cameron county, in the State of Texas, for and in consideration of the sum of five hundred dollars, received to my full satisfaction, of O. F. Janes, of said Cameron county and State aforesaid, have granted, bargained, sold, and delivered, and by these presents do grant, bargain, sell, and deliver unto the said O. F. Janes, his heirs, executors, administrators, and assigns, all of one certain tract or parcel of land lying on the east bank of the Rio Grande, and fronting on said river and adjoining the town of Freeport, and bounded on the east by land in the name of Marzario Garza, on the west by the Rio Grande, on the north by land in the name of Felipe Gloria, and on the south by land in the name of Nicolas Cabazos, viz., commencing at a stake in the prairie marked +, and running north adjoining land belonging to said Marzario Garza, 91 varas. Thence west by land of Felipe Gloria 62 varas, to the margin of the Rio Grande. Thence south by the margin of said river 143 varas. Thence east 661 varas by land in the name of Nicolas Cabazos to the place of beginning, it being the land which was granted by the corporation of Matamoras on the 18th day of April, 1834, to Maximo Sierra, and by him granted to Catarina Vala on the 23d day of January, 1837, and by her transferred on the 17th day of June, 1848,

to this vendor, as will more fully appear from the accompanying deeds, which are made a part of this conveyance: To have and to hold the above granted and bargained premises, with all the appurtenances thereto appertaining or belonging unto the said O. F. Janes, his heirs, executors, administrators, and assigns, to his and their own proper and *and* behoof forever. And I, the said Juan Galan, do for myself, my heirs, executors, administrators, and assigns, covenant and agree with the said O. F. Janes, his heirs and assigns, that at and until the ensealing and delivering of these presents, I am well seized of the premises as a good and indefeasible estate in fee simple, and have good right to bargain and sell the same in manner and form as aforesaid, and that the same is free from all incumbrance whatever. And further, I, the said Galan, do by these presents bind myself, my heirs, executors, administrators, and assigns, to warrant and forever defend the above granted and bargained premises unto the said O. F. Janes, his heirs and assigns against all claims whatsoever; and that so soon as the said O. F. Janes, his heirs or assigns, shall obtain a survey of said land, that I will execute and deliver to him or them a more full and complete transfer of the same.

In witness whereof I have hereunto set my hand and seal at Freeport this 29th day of June, A. D. 1848.

JUAN GALAN.

(Rubrica.)

Signed, sealed, and delivered in presence of

ISRAEL B. BIGELOW,

DARIUS BACON.

STATE OF TEXAS,

County of Cameron.

On this second day of November, 1848, before me personally came Darius Bacon, subscribing witness to the above conveyance, to me known, who, being by me duly sworn, did depose and say that he knows Juan Galan, the person described in and who executed the above conveyance, and that he was present and saw Juan Galan sign, seal, and deliver the same as and for his act and deed, and the said Galan then acknowledged the same; whereupon the said Darius Bacon became the subscribing witness.

In testimony whereof I hereunto set my name and affix the seal of
[SEAL] my office, day and date as above.

THOS. J. STANSBURY,

County Clerk, Cameron County.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et als.*, plaintiffs,
and

CHARLES STILLMAN *et als.*, defendants.

Twenty-fourth December, 1850, at the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined,

and by him deposed unto at the time of his examination on the defendants' behalf before me.

J. N. REYNOLDS,
Com.

Exhibit 5.

Know all men by these presents that I, Marzario Garza, of the county of Cameron, in the State of Texas, for the consideration of five hundred dollars, received to my full satisfaction of O. F. Janes, of said Cameron county and State aforesaid, do grant, bargain, sell, and confirm unto the said O. F. Janes, his heirs, executors, administrators, and assigns, all of one certain tract or parcel of land, being and lying in said Cameron county, in the State of Texas, on the east bank of the Rio Grande, opposite the city of Matamoras, about half a mile from Fort Parades, and bounded as follows: commencing at a stake marked + and running northeast by the road or highway 250 varas; thence north by a broken down fence owned by Julian Sierra, 250 varas; thence northwest by land belonging to Felipe Gloria, on a line 313 varas; thence east by land in the name of Alexandre Travina, 250 varas, to the place of beginning, it being the same land which was granted by the corporation of Matamoras on the 12th day of April, 1834, to this vendor; as will more fully appear from the accompanying corporation deed, which is made a part of this conveyance.

To have and to hold the above granted and bargained premises, with all the appurtenances thereof, unto the said O. F. Janes, his heirs, executors, administrators, and assigns, to his and their own proper use and behoof forever.

And I, the said Marzario Garza, do for myself and my heirs, executors, administrators, and assigns, covenant and agree with the said O. F. Janes, his heirs, executors, administrators and assigns, that at and until the ensealing and delivery of these presents I am well seized of the premises as a good and indefeasible estate and fee-simple, and have good right to bargain and sell the same, in manner and form aforesaid. And further, I, the said Marzario Garza, for myself, my heirs, executors, administrators, and assigns, do covenant and agree with the said O. F. Janes, his heirs and assigns, to warrant and forever defend the above granted and bargained premises unto him, the said O. F. Janes, his heirs and assigns, against all claims and demands whatsoever. And I, the said Marzario Garza, further bind myself by these presents to make and deliver to the said Janes, his heirs and assigns, a more full and complete title to the said premises so soon as a survey shall be had of the same. In witness whereof, I have hereunto set my hand and seal at the town of Freeport, in said Cameron county and State of Texas, the fifth day of July, 1848.

his
MARZARIO + GARZA.
mark.

Signed, sealed, and delivered in presence of
ISRAEL B. BIGELOW.
J. G. BROWNE.

S. MONOREL.
DARIUS BACON.

STATE OF TEXAS,
County of Cameron.

On this second day of November, 1848, before me personally came Darius Bacon, subscribing witness to the above conveyance, to me known, and who by me being duly sworn, did depose and say that he knows Marzario Garza, the individual described in and who executed the above conveyance, that he saw him sign, seal, and deliver the same, and that the said Garza then acknowledged the same as and for his act and deed, whereupon the said Darius Bacon became the subscribing witness thereto.

In testimony whereof I have hereunto set my name and affixed the seal of my office, day and date as above.

[SEAL.]

THOS. J. STANSBURY,
Clerk County Court Cameron C'ty.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et als.*, plaintiffs,
and
CHARLES STILLMAN *et als.*, defendants.

Twenty-fourth December, 1850, at the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendant's behalf, before me.

J. N. REYNOLDS,
Com.

Exhibit 6.

CAMERON COUNTY,
State of Texas.

Know all men by these presents that I, Teodoro Molino, of Cameron county, Texas, for and in consideration of the sum of one hundred dollars, to me in hand paid by Manuel Treviño (alias Canales,) and before the signing and delivery hereof, the receipt whereof I do hereby acknowledge and forever discharge the said Manuel Treviño, by these presents have bargained, granted, sold, released, and conveyed, and by these presents do bargain, grant, sell, release, and convey unto the said Manuel Treviño, his heirs and assigns, all that certain tract, parcel, and labor of land lying and being situate in the County of Cameron, State of Texas, within what is termed the Exidos of the City of Matamoras, situated on the left bank of the Rio Grande, being a labor of land granted by the Honorable Ayuntamiento of the said City of Matamoras, on the to Ignacio Flores and as per map and survey made by Geo. Lyon, Deputy Surveyor of the Land District of San Patricio and Nueces, described as follows: Beginning at the S. W. corner of a labor granted Catarina Vela. Thence with the dividing line of the said Vela and Flores N. 3° 45°

E. 220 varas, N. 30° E. 170 varas, to the S. E. corner of a labor granted to Onofre Rebalcaba. Thence with the *the* dividing line of the said Rebalcaba and Flores, N. 54° 15' W. 270 varas, to the N. E. corner of a grant made to Manuel Trevino. Thence with the dividing line of the said Treviño and Flores, S. 22° 45' W. 370 varas, to a labor granted to Garza. Thence with the dividing line of Garza and Flores, S. 29° 15' E. 195 varas, to the bank of the Rio Grande. Thence down with the meanders of the Rio Grande, N. 70° E. 97 varas, S. 83° E. 100 varas to the place of beginning; containing twenty-one $\frac{22}{100}$ acres ($21\frac{22}{100}$) of Situated on the N. E. side of the Rio Grande, within the town of Brownsville: Together with all the improvements, rights, privileges, hereditaments thereto appurtenant, or in anywise appertaining. To have and to hold the said tract, parcel, and labor of land, hereditaments, privileges, rights hereby granted or mentioned, or intended so to be, with the appurtenances, unto the said Manuel Treviño, his heirs and assigns forever. In witness, whereof, I have hereunto set my hand, and affixed my seal (using scroll for seal,) this thirtieth (30th) day of January, one thousand eight hundred and forty-nine (1849.) Done at Brownsville, County and State aforesaid.

Signed, sealed, and delivered in presence of witnesses.

TEODORO MOLINO. [L. s.]
(Rubrica.)

THE STATE OF TEXAS,
County of Cameron.

Personally appeared before me, Thos. J. Stansbury, Clerk of the County Court of said County, the above named Teodoro Molino, (to me well known,) who acknowledged that he signed, sealed, and delivered the above deed of conveyance as his act and deed on the day therein mentioned.

Given under my hand and the seal of the County Court of said County, this (30) thirtieth day of January, 1849.

THOS. J. STANSBURY,
C. C. C. C. Co.

In Chancery,

Between RAFAEL GARCIA CAVAZOS *et als.*, Plaintiffs,

and

CHARLES STILLMAN *et als.*, Defendants.

Twenty-fourth December, 1850, at the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto, at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS,
Commissioner.

CONSULATE OF THE U. S. A.

I, Thomas W. Slemons, Consul of the United States of America for the Port of Matamoras, do hereby certify that Joaquin Arguelles, who attests the above document under his own proper signature, to me, the said Consul, well known, is now and was at the time of signing the same, a Notary Public in and for the Port of Matamoras, and that to his acts as such, full faith and credit are given in and out of Judicature.

In testimony whereof, I hereunto subscribe my name and affix the seal of my office, this twelfth day of October, 1848.

[SEAL.]

THOMAS W. SLEMONS.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, Plaintiffs,

and

CHARLES STILLMAN *et aliis*, Defendants.

Twenty-fourth December, 1850, at the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto, at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS,
Com.

Exhibit 8.

COUNTY OF CAMERON,
State of Texas.

Know all men by these presents that Catarina Vela, Maria Josefa Barrio Villareal, Maria Augustina Barrio Rebalcaba, Rafael Baoios Vela, Esteban Rebalcaba, for and in consideration of the sum of one dollar, to us in hand paid by Charles Stillman, of Cameron County, Texas, the receipt whereof is hereby acknowledged before the signing, sealing, and delivering hereof, and the further consideration of the sum of five hundred and sixty-three dollars, to be paid when we or either of us shall deliver to said Charles Stillman, his heirs or assigns, a copy of the original title to us or either of us, as evidence of our having title to the hereinafter described tract or parcel of land, by these presents have bargained, granted, sold, released, and conveyed, and by these presents do bargain, grant, sell, release, and convey unto the said Charles Stillman, his heirs and assigns, all that certain tract or parcel or parcels of land lying and being situate in the County of Cameron, State of Texas, within the limits of what is termed the "Exidos" of the City of Matamoras, situated on the left bank of the Rio Grande, being labors of land granted by the Honorable Ayuntamiento, of the City of Matamoras, on the to Catarina Vela.

And as pr. survey and map made by George Lyon, deputy surveyor of the land district of San Patricio and Nueces, described as follows: Beginning on the bank of the Rio Grande, at the lower or S. E. corner of a labor granted to Ignacio Flores; thence with the remains of the dividing fence of the said Vela and Ceritio Famora. N. 80° E. 342 varas to the S. W. corner of a labor granted to Roderigo Inojosa; thence with the remains of the dividing fence of Roderigo Inojosa and the said C. Vela N. 82° W. 14 varas, N. 16° $30'$ E. 45 varas, N. 34° $15'$ E. 200 varas, N. 34° $45'$ 169 varas to the S. E. corner of a labor granted to Francisco Fragosa; thence with the remains of the dividing fence of the said Fragosa and C. Vela N. 37° W. 180 varas, N. 49° $30'$ W. 92 varas, to the corner of a labor granted to Onofre Rebalcaba; thence with the remains of the dividing fence of the said Rebalcaba and C. Vela S. 46° $45'$ W. 200 varas, S. 42° W. 198 varas, to the northeast corner of the aforesaid labor granted to Ignacio Flores; thence with the dividing line of the said Flores and Vela S. 30° W. 170 varas, S. 3° $45'$ W. 220 varas to the place of beginning, containing $33\frac{33}{100}$ acres of land, together with all the improvements, rights, hereditaments thereto appurtenant or in anywise appertaining: to have and to hold the said tract or parcel of land, improvements, hereditaments, &c., granted or mentioned, or intended so to be, unto the said Charles Stillman, his heirs and assigns forever. In witness whereof, we have hereunto set our hands and affixed our seals, scrolls for seals, at Brownsville, this twentieth day of December, one thousand eight hundred and forty-eight (1848.)

Decreto Famora, assignee, interlined before signing.

her
CATARINA + VELA. [L. s.]
mark.

Scrolls for seals interlined before signing.

her
BARRIO + VILLAREAL. [L. s.]
mark.

her
BARRIO + REBALCABA. [L. s.]
mark.

RAFAEL BARRIO y VELA. [L. s.]
[Rubrica.]
[L. s.]

Signed, sealed, and delivered in presence of
ISRAEL B. BIGELOW.

ESTEBAN REBALCABA. [L. s.]

STATE OF TEXAS,
County of Cameron.

Personally appeared before me, Israel B. Bigelow, chief justice of the county court, and ex-officio notary public in and for the county of Cameron, and State of Texas, Catarina Vela and Esteban Rebalcaba, Rafael Baroio y Vela, son of Catarina Vela and Esteba Rebalcaba, three of the signers and sealers to the foregoing deed of conveyance, personally known to me, who acknowledged that they severally

signed, sealed, and delivered the foregoing deed for the purposes therein expressed. was inserted before sealing.

[SEAL.]

ISRAEL B. BIGELOW,
Chief Justice of the County Court, and ex-officio
Notary Public in and for the County of Cameron,
State of Texas.

STATE OF TEXAS,
Cameron County.

Personally appeared before me, Israel B. Bigelow, chief justice of the county court, and ex-officio notary public in and for the county of Cameron, State of Texas, Maria Josefa Barrio Vellareal, daughter of Catarina Vela, and wife of José Maria Villareal, a resident of Cameron county, and State of Texas, party to the foregoing or annexed deed or writing of conveyance, bearing date on the 20th day of December, A. D. 1848, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Maria Josefa Barrio Villareal, acknowledged the same to be her act and deed, and declared that she had willingly signed, sealed, and delivered the same, and she wished not to retract it; to certify which I hereto sign my name and affix my seal, office in Brownsville, in said Cameron county, this twentieth day of December, 1848.

[SEAL.]

ISRAEL B. BIGELOW,
Chief Justice of the County Court, and ex-officio
Notary Public in and for the County of Cameron,
State of Texas.

STATE OF TEXAS,
County of Cameron.

Personally appeared before me, Israel B. Bigelow, chief justice of Cameron county, and ex-officio notary public, Maria Augusta Barrio Rebalcaba, daughter of Catarina Vela, and wife of Esteban Rebalcaba, a resident of Cameron county, to me personally known, a party to a certain, or the foregoing, or annexed deed or writing of conveyance, bearing date on the 20th day of December, A. D. 1848, and having been by me examined privily and apart from her husband, and having the same fully explained to her, she, the said Maria Augustina Borrio y Rebalcaba, acknowledged the same to be her act and deed, and declared that she had willingly signed, sealed, and delivered the same, and that she wished not to retract it. To certify which I hereto sign my name and affix the seal of my office in Brownsville, in Cameron county, this twentieth day of December, A. D., 1848.

[SEAL.]

ISAAC B. BIGELOW,
Chief Justice and ex-officio Notary Public in and for the
County of Cameron, State of Texas.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et als.*, Plaintiffs,
and

CHARLES STILLMAN *et als.*, Defendants.

Twenty-fourth December, 1850, at the execution of a Commission for the examination of witnesses in this cause, this paper writing was

produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendant's behalf, before me.

J. N. REYNOLDS,
Commissioner.

Exhibit 9.

STATE OF TEXAS,
County of Cameron.

Know all men by these presents, that I, Miguel Salinas, of State and c'ty above, for and in consideration of the sum of five hundred dollars, to me in hand paid by Charles Stillman, Cameron C'ty, Texas, and before the signing, sealing, and delivering of these presents, the receipt whereof I hereby acknowledge, and forever discharge the said Charles Stillman, by these presents have bargained, granted, sold, released, and conveyed, and by these presents do bargain, grant, sell, release, and convey unto the said Charles Stillman, his heirs or assigns, all that certain tract or parcel of land, lying and being situate in the County of Cameron, State of Texas, within the limits of what is termed the "Exidos" of the City of Matamoras, on the left bank of the Rio Grande, as per survey and map, made by Geor. Lyon, Deputy Surveyor of the said District of San Patricio and Nueces, described as follows: Being situated about one quarter of a mile S. E. from the town of Brownsville, in the county of Cameron, beginning at a point of the Eastern Boundary of labor of Doroteo Fambras, assignee of ; thence N. $88^{\circ} 30'$ E. 334 varas, S. 1° E. 145 varas to the bank of a lake; thence with the meanders of said lake S. 68° W. 230 varas, S. $14^{\circ} 30'$ W. 130 varas to the N. E. corner of a labor granted to Manuel Vela; thence with the dividing line of Salinas and Manuel Vela, S. 77° W. 43 varas to the corner of the labors of Agapelo, Manuel Vela, and Miguel Salinas; thence with the dividing line of the said Agapeto, Vela, and Salinas, N. $3^{\circ} 30'$ E. 95 varas, N. 15° W. 184 varas to the S. E. corner of a labor of Doroteo Famero; thence with the dividing line of the said Famero and Salinas, N. $00^{\circ} 30'$ E. 81 varas to the place of beginning; containing $12\frac{53}{100}$, twelve $\frac{53}{100}$ acres of land, granted by the Corporation of Matamoras to Miguel Salinas, and by purchases, together with all the rights, improvements, hereditaments, &c., appurtenant or in anywise appertaining, to have and to hold the said tract, parcel, or labor of land, improvements, hereditaments, rights hereby granted, or mentioned, or intended so to be, unto the said Charles Stillman, his heirs and assigns forever. In witness whereof I have hereunto set my hand and *and* affixed my seal, scroll for seal, this sixth day (6) of December, A. D. one thousand eight hundred and forty-eight (1848.)

[L. S.]

MIGUEL SALINAS.
[Rubrica.]

Signed, sealed, and delivered in presence of witnesses.

WM. H. BROWN.

[Rubrica.]

AGAPITO VELA.

[Rubrica.]

STATE OF TEXAS,
County of Cameron.

Before me, William L. Walradt, Clerk pro tem. of the Courts in and for the County and State aforesaid, personally appeared William H. Brown, to me personally well known, and one of the subscribing witnesses of the foregoing instrument of writing or deed of conveyance, and who, after being duly sworn according to law, did depose and say that he saw the grantor, Miguel Salinas, sign, seal, and deliver the said instrument of writing or deed of conveyance to Charles Stillman aforesaid, and that he, the said William H. Brown, signed the same as one of the subscribing witnesses thereto, at the request and in the presence of said Miguel Salinas, to certify which I hereto sign my name and affix my seal of office, this eighth day of March, A. D. 1849.

[SEAL.]

WM. L. WALRADT,

*Clerk pro tem. of the County Court of Cameron
County, Texas.*

STATE OF TEXAS,
County of Cameron.

I, Clerk of the County Court in and for the County and State aforesaid, do hereby certify that the foregoing instrument of writing was filed for record in my office on the 19th day of December, A. D. 1850, at 7 o'clock P. M., and was duly recorded on the next day in Book *D* of Real Estate, pages 228, 229, and 230, to certify which witness my hand and seal of office, this, the 20th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,

Clerk C. C. C. C.

By B. H. FRY,

Deputy.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et als.*, Plaintiffs,
and

CHARLES STILLMAN *et als.*, Defendants.

Twenty-fourth December, 1850. At the execution of a commission for the examination of witnesses in this cause, this paper was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me,

J. N. REYNOLDS,

Commiss.

Exhibit 10.

STATE OF TEXAS,
County of Cameron.

Know all men by these presents, that I, Manuel Vela, of State and County as above, for and in consideration of the sum of two hundred and fifty dollars, to me in hand paid by Charles Stillman, Cameron County, Texas, and before the signing, sealing, and delivering of these presents, the receipt whereof I hereby acknowledge, and forever

discharge the said Charles Stillman, have by these presents bargained, granted, sold, released, and conveyed, and by these presents do bargain, grant, sell, release, and convey unto the said Charles Stillman, his heirs and assigns, all that certain tract or parcel of land lying and being situated in the County of Cameron, State of Texas, within the limits of what is termed the "Exidos" of the city of Matamoras, on the left bank of the Rio Grande, being a labor of land granted by the Hon'able Ayuntamiento of the City of Matamoras to one Manuel Vela on and as per map and survey of Geo. Lyon, Deputy Surveyor of the land districts of San Patricio and Neuces, described as follows: Being situated about one-half mile below the town of Brownsville, in the county of Cameron; beginning at the S. E. corner of a labor granted to Miguel Salinas, being on the bank of a lake; thence with the meanders of said lake S. $14^{\circ} 30'$ W. 30 varas, S. 20 E. 150 varas, S. 50 E. 188 varas; thence with the remains of an old fence S. $74^{\circ} 30'$ W. 230 varas, S. 8° W. 8 varas, N. 87° W. 100 varas to the bank of the Rio Grande, being the S. W. corner of a labor granted to Agapito Vela; thence up with an old road being the dividing lines of Agapito Vela and Manuel Vela, N. 30° E. 82 varas, N. $6^{\circ} 15'$ E. 120 varas, N. $11^{\circ} 30'$ E. 160 varas to the S. W. corner of the labor of Miguel Salinas; thence with the dividing line of the said Salinas and Manuel Vela N. 77° E. 43 varas to the place of beginning, containing $(10\frac{14}{100})$ ten $\frac{14}{100}$ acres of land, together with all the rights, improvements, hereditaments thereunto appurtenant or in anywise appertaining: to have and to hold said tract or parcel of land and labor, with all the rights, improvements, hereditaments, &c., unto the said Charles Stillman, his heirs and assigns forever. In witness whereof I have hereunto set my hand and affixed my seal (scroll for seal) this (6) sixth day of December, one thousand eight hundred and forty-eight (1848.) "Of the city of Matamoras" interlined before signing.

MANUEL VELA. [L. s.]

Signed, sealed, and delivered in presence of witness.

JOSEPH SAN ROMAN,
(Rubrica.)

JAS. P. RUDOLPH.

STATE OF TEXAS,
County of Cameron.

Before me, William L. Walradt, Clerk pro tem. of the County Court in and for the county and State aforesaid, personally appeared James P. Rudolph, to me personally and well known, and who, after being sworn according to law, deposes and says, that he saw the grantor Manuel Vela sign, seal, and deliver the said instrument of writing to the above named Charles Stillman, and that he, the said James P. Rudolph, had signed the same as one of the subscribing witnesses thereto, at the request and in the presence of the said Manuel Vela; to certify which I hereto set my name and affix my seal this seventh day of March, A. D. 1849.

[SEAL.]

WM. L. WALRADT,
*Clerk pro tem. of the County Court in
and for the County and State aforesaid.*

THE STATE OF TEXAS,
Cameron County.

I, Clerk of the County Court in and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing was filed for record in my office on the 19th day of December, A. D. 1850, at 9 o'clock p. m., and was duly recorded next day in book *D* of Real Estate, pages 230, 231, and 232, to certify which witness my hand and seal of office this 20th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,
Clk C. C. C. C

By B. H. FRY.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, plaintiffs,
and

CHARLES STILLMAN *et aliis*, defendants.

Twenty-fourth December, 1850. At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and deposed unto at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS,
Com.

Exhibit 11.

STATE OF TEXAS,
County of Cameron.

Know all men by these presents, that I, Encarnacion Trevino, of this county and State, for and in consideration of the sum of one hundred dollars to me in hand paid by Doretio Famora, citizen of Cameron county, State of Texas, and before the signing, sealing and delivering thereof, the receipt whereof I hereby acknowledge and forever discharge the said Doretio Famora, his heirs and assigns, by these presents, have bargained, granted, sold, released, and conveyed, and by these presents do bargain, grant, sell, release, and convey unto the said Doretio Famora, his heirs and assigns, all that certain tract or parcel of land lying and being situate in the county of Cameron, State of Texas, within the limits of what is termed the "Exidos" of the city of Matamoras, on the left bank of the Rio Grande, granted by the honorable the ayuntamiento of the city of Matamoras, to an and as per map and survey made by Geo. Lyon, deputy surveyor of the land district of San Patricio and Nueces, described as follows, to wit: Beginning at the common corner of the labors of Ignacio Flaes, Vela, and Doretio Famora on the bank of the Rio Grande; thence with the dividing line of the said Famora and Vela S. 80° E. 342 varas to the S. E. corner of the labor of the said Vela; thence with the dividing line of the said Famora, and land said to be public, S. 12° E. 250 varas to the N. W. corner of the labor of Salinas; thence with the dividing line of Salinas and Famora S. 00° 30' W. 80

varas to the N. E. corner of a labor granted to Agapeto Vela ; thence with the dividing line of the said Agapeto Vela and Famora S. 13° W. 160 varas to the bank of the Rio Grande ; thence with the meanders of the Rio Grande N. $18^{\circ} 30'$ W. 99 varas, N. 33° W. 120 varas, N. 48° W. 160 varas to the place of beginning, and containing $(13\frac{54}{100})$ thirteen $\frac{54}{100}$ acres, together with all and singular the improvements, rights, privileges, buildings, and appurtenances thereunto belonging or in anywise appertaining, to have and to hold said tract, parcel, and labor of land, hereditaments, and premises hereby granted, or mentioned, or intended so to be, with the appurtenances, unto the said Doreteo Famora, his heirs and assigns forever. In witness whereof I have hereunto set my hand, affixed my seal, using scroll for seal, at Brownsville, this tenth day of Jan'y, one thousand eight hundred and forty-nine, (1849.)

Signed, sealed, and delivered in presence of,

ENCARNACION TREVINO. [L. s.]

THE STATE OF TEXAS,
County of Cameron.

On this tenth day of January, A. D. 1849, before me personally came Encarnacion Trevino, to me known to be the individual described in, and who executed the above deed, and he acknowledged that he executed the same for the purpose therein contained and expressed.

Given under my hand and seal of office as county clerk of said county.

[SEAL.]

THOMAS J. STANSBURY,
C. C. C. C.

THE STATE OF TEXAS,
County of Cameron.

I, clerk of the county court in and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing was filed for record in my office on the 19th day of December, A. D. 1850, at 9 o'clock P. M., and was duly recorded on the next day, in book "D" of real estate, pages 226, 227, and 228. To certify which

Witness my hand and seal of office, this 20th day of December, A. D. 1850.

F. W. LATHAM,
Cl'k C. C. C. C.

By B. H. FRY,
Deputy.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, plaintiffs, }
and
CHARLES STILLMAN *et aliis*, defendants. }

Twenty-fourth December, 1850. At the execution of a commission for the examination of witnesses in this cause, this paper writing was

produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS, *Com.*

Exhibit 12.

STATE OF TEXAS,

County of Cameron.

Know all men by these presents, that I, Agapito Vela, of county Cameron, State of Texas, for and in consideration of the sum of five hundred and fifty dollars, to me in hand paid by Charles Stillman, Cameron county, Texas, and before the signing, sealing, and delivering hereof, the receipt whereof I hereby acknowledge, and forever discharge the said Charles Stillman, by these presents have bargained, granted, sold, released, and conveyed, and by these presents do bargain, grant, sell, release, and convey, unto the said Charles Stillman, his heirs and assigns, all that certain tract or parcel of land lying and being situate in the county of Cameron, State of Texas, within the limits of what is termed the "Exidos" of the city of Matamoras, situate on the left bank of the Rio Grande, being a labor of land granted by the honorable ayuntamiento of the city of Matamoras to me, Agapito Vela, and, as per map and survey of Geo'e Lyon, deputy surveyor of the land district of San Patricio and Nueces, described as follows: Beginning at the S. E. corner of a labor granted to ; thence with the dividing line of Meguil Salinas and the said Vela S. 15° E. 184 varas, S. $3^{\circ} 30'$ W. 95 varas to the N. W. corner of a labor granted to Manuel Vela; thence with the dividing line of Manuel Vela and Agapito Vela S. $11^{\circ} 30'$ W. 160 varas, S. $6^{\circ} 15'$ W. 120 varas, S 30° W. 82 varas to the bank of the Rio Grande, being the S. W. corner of the labor of the said Manuel Vela; thence up with the meanders of the Rio Grande N. 6° W. 340 varas, N. 16° W. 150 varas, N. $18^{\circ} 30'$ W. 121 varas to the S. W. corner of the aforesaid labor of Doretio Famora, assignee of ; thence with the dividing line of the said Famora and Agapito Vela, N. $76^{\circ} 15'$ E. 160 varas to the place of beginning, being situated about one hundred yards below the town of Brownsville, and containing ten $\frac{27}{100}$ acres of land, ($10\frac{27}{100}$), together with all the rights, improvements, hereditaments, and thereunto appurtenant or in anywise appertaining, to have and to hold the said tract, parcel or labor of land, improvements, hereditaments, &c., hereby granted, mentioned, or intended to be, unto the said Charles Stillman, his heirs and assigns forever. In witness whereof I have hereunto set my hand and affixed my seal (scroll for seal) this sixth day of December, A. D. one thousand eight hundred and forty-eight, (1848.)

AGAPITO VELA, [L. s.]
(Rubrica.)

Signed, sealed, and delivered in presence of witnesses

JAS. P. RUDOLPH,
WM. H. BOWNE.

THE STATE OF TEXAS,
County of Cameron.

Before me, Wm. L. Walradt, clerk *pro tem.* of the county court in and for the county and State aforesaid, appeared James P. Rudolph, to me personally and well known, who, after being duly sworn according to law, did depose and say, that he is one of the subscribing witnesses to the foregoing instrument of writing or deed of conveyance; that he saw the grantor, Agapito Vela, sign, seal, and deliver the said instrument of writing to said Charles Stillman, and that he, the said James L. Rudolph, had signed the same at the request and in the presence of said Agapito Vela; to certify which I hereto sign my name and affix my seal,

This second day of March, A. D. 1849.

[SEAL.]

WM. L. WALRADT, *Clerk pro tem.*
of the County Court, Cameron Co., Texas.

THE STATE OF TEXAS,
County of Cameron.

I, clerk of the county court in and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing was filed in my office for record on the 19th day of December, A. D. 1850, at 7 o'clock, and was duly recorded on the next day in book "D" of real estate, pages 223, 224, and 225.

To certify which, witness my hand and seal of office, this 20th day of December, A. D. 1850.

F. W. LATHAM, *C. C. C. C.*
By B. H. FRY, *Deputy.*

In chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, plaintiffs, }
and
CHARLES STILLMAN *et aliis*, defendants. }

Twenty-fourth December, 1850. At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS, *Com.*

Exhibit 13.

STATE OF TEXAS,
County of Cameron.

Know all men by these presents, that I, Manuel Vela, for and in consideration of the sum of one hundred dollars to me in hand paid by Manuel Treviño, and before the signing, sealing, and delivering these presents, the receipt whereof I hereby acknowledge, and forever discharge the said Manuel Treviño, by these presents have bargained,

granted, sold, released, and conveyed, and by these presents do bargain, grant, sell, release, and convey, unto the said Manuel Treviño, his heirs and assigns, all that certain tract or parcel of land lying and being situate in the county of Cameron, State of Texas, within what is termed the "exidos" of the city of Matamoras, and granted by the honorable ayuntamiento of said city to Manuel Vela, and as per map and survey of Geo. Lyon, deputy surveyor of the land district of San Patricio and Nueces, described as follows: Being an island or peninsula, beginning S. 8° E. 135 varas from the S. E. corner of a labor granted to Meguil Salinas, on the opposite or south side of the lake, (the above corner being on the N. side of said lake;) thence with the meanders of said island or peninsula S. 71° 45' W. 90 varas, S. 50° 30' W. 70 varas, S. 28° 30' E. 150 varas, S. 58° 30' E. 210 varas, S. 73° E. 196 varas, N. 85° 45' E. 160 varas, S. 65° 45' E. 100 varas, N. 42° 15' E. 20 varas, N. 50° W. 580 varas, N. 82° 45' W. 100 varas, to the place of beginning, containing twenty-one $\frac{66}{100}$ acres, ($\frac{66}{100}$), together with all the right, improvements, hereditaments, appurtenant or in anywise appertaining: to have and to hold the said tract of land, parcel or labor, improvements, rights, hereditaments hereby granted, or mentioned or intended to be, unto the said Manuel Treviño, his heirs or assigns forever. In witness whereof I have hereunto set my hand and affixed my seal (scroll for seal) this sixth day of December, A. D. one thousand eight hundred and forty-eight (1848.)

MANUEL VELA, [L. s.]

Signed, sealed, and delivered in presence of witness.

JOSEPH SAN ROMAN.

JAS. L. RUDOLPH.

STATE OF TEXAS,

County of Cameron.

Before me, William L. Waldradt, clerk *pro tem.* of the county court in and for the county and State aforesaid, personally appeared James L. Rudolph, one of the subscribing witnesses to the foregoing instrument of writing and deed of conveyance, and who, after being duly sworn according to law, did depose and say, that he saw the grantor, Manuel Vela, sign, seal, and deliver the said instrument, in writing, or deed of conveyance, to the said Manuel Treviño, and that he, the said James L. Rudolph, had signed the same as one of the subscribing witnesses thereto, at the request and in the presence of said Manuel Vela, to certify which I hereto sign my name and affix my seal this seventh day of March, A. D. 1849.

— [SEAL.]

WILLIAM L. WALRADT, *Clerk pro tem.*
Of the County Court of Cameron county aforesaid.

STATE OF TEXAS,

County of Cameron.

I, clerk of the county court in and for the county and State aforesaid, do hereby certify the foregoing instrument of writing was filed

for record in my office on the 19th day of December, A. D. 1850, and was duly recorded, on the next day, in book "D," pages 221, 222, and 223. To certify which,

Witness my hand and seal of office this the 20th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,
C. C. C. C.

By B. H. FRY,
Deputy.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, Plaintiffs,
and

CHARLES STILLMAN *et aliis*, Defendants.

Twenty-fourth December, 1850.—At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS, *Com.*

Exhibit 14.

STATE OF TEXAS,

County of Cameron.

Know all men by these presents, that I, Leander Martinez of State and county aforesaid, for and in consideration of the sum of one hundred to me in hand paid by Manuel Treviño, and before the signing, sealing, and delivering hereof, the receipt whereof I hereby acknowledge, and discharge the said Manuel Treviño, by these presents have bargained, granted, sold, released, and conveyed, and by these presents do bargain, grant, sell, release, and convey unto the said Manuel Treviño, his heirs and assigns, all that certain tract, parcel, or labor of land lying or being situate in the county of Cameron, State of Texas, within the limits of what is termed the "Exidos" of the city of Matamoras, situated on the left bank of the Rio Grande, being a labor of land granted by the honorable the ayuntamiento of the city of Matamoras, on the to and as per survey and map of Geo. Lyon, deputy surveyor of the land district of San Patricio and Nueces, described as follows: Beginning at the N. W. corner of a labor granted to Onofre Rebalcaba; thence with the dividing line of the said Rebalcaba and Martinez, S. 9° 30' E. 180 varas, 430 across a resaca, S. 20° E. 62 varas, S. 70° 15' W. 40 varas, S. 87° 30' W. 70 varas, S. 20° 45' W. 60 varas, S. 64° 30' W. 285 varas, to the S. W. boundary of a labor granted to Manuel Trevino; thence with the said labor N. 37° W. 246 varas to public lands; thence with the dividing line of the public lands and Martinez, N. 45° 45' E. 368 varas, to the southern bank of the resaca "de las

Homillas ;'' thence S. 86° E. 228 varas across the same, to the place of beginning, containing twenty-five $\frac{4}{100}$ acres, ($25\frac{4}{100}$), situated about half a mile past from Brownsville. Together with all the rights, privileges, improvements, hereditaments thereto appurtenant, or in any-wise appertaining: to have and to hold the said tract, parcel, or labor of land, with all the rights, privileges, hereditaments, &c., unto the said Manuel Trevino, his heirs and assigns, forever. In witness whereof, I have hereunto set my hand and affixed my seal (using scroll for seal) at Brownsville, county and State aforesaid, this day of January, 1849.

Signed, sealed, and delivered in presence of witnesses,

EDWIN B. SCARBOROUGH,

VILTOR SANDOVALEZ.

(Rubrica.)

LEANDRO ^{his} + MARTINEZ. [L. S.]
mark.

THE STATE OF TEXAS,

County of Cameron.

On this 10th day of January, A. D. 1849, before me, personally came Leandro Martinez, to me known, who acknowledged that he executed the within deed for the purposes therein mentioned and contained.

Given under my hand and seal of office, day and date as above.

[SEAL.]

THOS. J. STANSBURY,

County Clerk, Cameron County.

STATE OF TEXAS,

County of Cameron.

I, clerk of the county court in and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing was filed for record in my office on the 19th day of December, A. D. 1850, at 7 o'clock, P. M., and was duly recorded on the next day in book "D" of Real Estate, on pages 218, 219, and 220.

To certify which, witness my hand and seal of office this the 20th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,

Cl'k C. C. C. C.

By B. H. FRY,

Deputy.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, Plaintiffs,
and

CHARLES STILLMAN *et aliis*, Defendants.

Twenty-fourth December, 1850.—At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness, sworn and examined,

and by him deposed unto at the time of his examination on the defendants' behalf before me.

J. N. REYNOLDS, *Com.*

Exhibit 15.

STATE OF TEXAS,
County of Cameron.

Know all men by these presents, that I, Doreteo Famoro, for and in consideration of the sum of three hundred dollars, to me in hand paid by Charles Stillman, Cameron county, Texas, and before the signing, sealing, and delivering hereof, the receipt whereof I hereby acknowledge, and forever discharge the said Charles Stillman, by these presents have bargained, granted, sold, released, and conveyed, and by these presents do bargain, grant, sell, release, and convey unto the said Charles Stillman, his heirs or assigns, all that certain tract or parcel of land lying or being situate in the county of Cameron, State of Texas, within the limits of what is termed the "Exidos" of the city of Matamoras, situate on the left bank of the Rio Grande, being a labor of land granted by the honorable ayuntamiento of the city of Matamoras aforesaid to Sante Iberio on and as per survey and map made by Geo. Lyon, deputy surveyor of the land districts of San Patricio and Nueces, described as follows: Beginning at the common corner of Ignacio Flores C. Vela and the said Doreteo Famoro, on the bank of the Rio Grande; thence with the dividing line of the said Famoro and Vela, N. 80° E. 342 varas, to the S. E. corner of the labor of the said Vela; thence with the dividing line of the said Fomora and lands supposed to be public, S. 12° E. 250 varas, to the N. W. corner of the labor of Meguil Salinas; thence with the dividing line of Salinas and Famoro, S. 30' W. 81 varas, to the N. E. corner of a labor granted to Agapeta Vela; thence with the dividing line of Agapeto Vela and Famoro, S. 76° W. 160 varas, to the bank of the Rio Grande; thence up with the meanders of the Rio Grande, N. 18° 30' W. 99 varas, N. 33° W. 120 varas, N. 48° W. 160 varas, to the place of beginning—containing thirteen $\frac{54}{100}$ acres ($13\frac{54}{100}$.) Together with all the improvements, rights, hereditaments, &c., appurtenant thereto, or in anywise appertainining: to have and to hold the said tract, parcel, or labor of land, improvements, hereditaments, rights, &c., hereby granted or mentioned, or intended so to be, unto the said Charles Stillman, his heirs and assigns, forever. In witness whereof, I have hereunto set my hand and seal, (scroll for seal,) this twenty-sixth day of December, one thousand eight hundred and forty-eight, (1848.)

Signed, sealed, and delivered in the presence of—

M. M. STEVENS,
GRIO. RAINES.
(Rubrica.)

his
DORETEO + FAMORO. [L. s.]
mark.

STATE OF TEXAS,
County of Cameron.

Before me, William L. Walradt, clerk pro tem. of the county court in and for the county and State aforesaid, personally appeared Madison M. Stevens, to me personally and well known, and one of the subscribing witnesses to the foregoing instrument in writing or deed of conveyance, and who, after being duly sworn according to law, deposes and says, that he saw the grantor, Doroteo Famoro, sign, seal, and deliver the said instrument in writing to the above named Charles Stillman; and that he, the said Madison M. Stevens, has signed the same as one of the subscribing witnesses thereto, at the request and in the presence of the said Famoro: to certify which, I hereto sign my name and affix my seal, this seventh day of March, A. D. 1849.

[SEAL.]

WILLIAM L. WALRADT,
Clerk pro tem. of the County Court
of Cameron County, Texas.

THE STATE OF TEXAS,
County of Cameron.

I, clerk of the county court in and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing was filed for record in my office on the 19th day of December, A. D. 1850, at 7 o'clock p. m., and was duly recorded on the next day in Book "D" of real estate, pages 216, 217, and 218: to certify which, witness my hand and seal of office this 20th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,
Clk C. C. C. C.

By B. H. FRY, Deputy.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, Plaintiffs,
and
CHARLES STILLMAN, *et aliis*, Defendants.

Twenty-fourth December, 1850.—At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendant's behalf, before me.

J. N. REYNOLDS, Com.

Exhibit 16.

THE STATE OF TEXAS,
County of Cameron.

Know all men by these presents, that whereas Catarina Vela did bargain, sell, transfer, and deliver unto Juan Galan, on the seventeenth day of June, A. D. 1848, a certain tract and parcel of land

lying on the east bank of the Rio Grande, and fronting on the said river, and adjoining the town of Freeport, and bounded on the *bounded on the* east by land in the name of Marzario Garza, on the west by the Rio Grande, on the north by land in the name of Felipe Gloria, and on the south by land in the name of Nicolas Cabazos, to wit: commencing at a stake in the prairie marked +, and running north, adjoining land belonging to said Marzario Garza, ninety-one varas; thence west, by land of Felipe Gloria, six hundred and twenty-seven, to the margin of the Rio Grande; thence south, by the margin of said river, one hundred and forty-three varas; thence east six hundred and sixty-one varas, by land in the name of Nicolas Cabazos, to the place of beginning, it being the land which was granted by the corporation of Matamoras, on the eighteenth day of April, A. D. eighteen hundred and thirty-four, to Maximo Sierra, and by him granted, sold, and conveyed to Catarina Vela, on the twenty-third day of January, A. D. eighteen hundred and thirty-seven. And whereas the said Juan Galan did, on the twenty-ninth day of June, A. D. eighteen hundred and forty-eight, sell and convey the said land unto O. F. Janes, now, therefore, be it known, that we, Francisco Varias, Rafael Varias, Augustina Varias and her husband, Esteban Rebalcaba, and Chipita Varias and her husband, José Villareal, all residents of the State of Texas, have ratified and confirmed, and by these presents do ratify and confirm, the said sale and conveyance by the said Catarina Vela in favor of Juan Galan, and any subsequent transfers made by the said Juan Galan, we hereby, each of us renouncing and relinquishing all right and title that we may have or might have had to the said land in favor of Juan Galan, and those to whom the said Galan may have transferred the said land heretofore, that the said land may belong to the previous assigns of the said Juan Galan forever. Given under our hands and seals, the seals being scrolls, this twenty-fourth day of May, A. D. eighteen hundred and forty-nine. Signed, sealed, and delivered in the presence of—

FRANC'O VARIOS. [SEAL.]
 RAFAEL BARIOS. [SEAL.]

^{her}
 AUGUSTINA + VARIOS. [SEAL.]
_{mark.}

ESTEBAN REBALCABA. [SEAL.]

^{her}
 CHIPETA + VARIOS. [SEAL.]
_{mark.}

^{his}
 JOSE + VILLEREAL. [SEAL.]
_{mark.}

THE STATE OF TEXAS,
County of Cameron.

Before me, Israel B. Bigelow, chief justice and ex officio notary public in and for the county of Cameron, State of Texas, personally came and appeared Francisca Varias, Rafael Varias, Esteven Reval-

cabo, and José Villereal, all parties to the foregoing deed of conveyance, and acknowledged that they had severally signed, sealed, and delivered the same for the purposes therein set forth and expressed; and also personally appeared Augustina Varias and Chipeta Varias, also parties to the foregoing instrument of writing or deed of conveyance, having date the 24th day of May, 1849, and who, having been severally examined by me privily and apart from their husbands, and having the same fully explained to them, they, the said Augustina Varias and Chipeta Varias, acknowledged the same to be their acts and deed, and severally declared that they had signed, sealed, and delivered the same; that they wished not to retract their said several acts. To certify which, I hereunto set my name and affix my seal of office, at office in the town of Brownsville, in the aforesaid county of Cameron, on this twenty-fifth day of June, in the year of our Lord one thousand eight hundred and forty-nine.

[SEAL.]

J. B. BIGELOW,

*Chief Justice of the County Court, and ex officio**Notary Public of Cameron County, State of Texas.*

THE STATE OF TEXAS,

County of Cameron.

I, clerk of the county court in and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing was filed for record in my office on the eighth day of December, A. D. 1850, at 7 o'clock, p. m., and was duly recorded on the next day in book "D" of real estate, pages 213, 214, and 215: to certify which, witness my hand and seal of office this the 20th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,

*Clerk C. C. C. C.*By B. H. FRY, *Deputy.*

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, Plaintiffs,

and

CHARLES STILLMAN *et aliis* Defendants.

Twenty-fourth December, 1850.—At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS, *Com.**Exhibit 17.*

THE STATE OF TEXAS,

County of Cameron.

Know all men by these presents, that whereas I, Narzario Garza, a resident of the said county of Cameron, did sell and convey on

the fifth day of July, A. D. 1848, unto O. F. Janes, by deed in due form, all of one certain tract or parcel of land lying and being in said Cameron county, in the State of Texas, on the east bank of the Rio Grande, opposite the city of Matamoras, about one half mile from the Fort Paredes, and bounded as follows: commencing at at a stake marked +, and running northeast by the road or highway 25 varas; thence north, by a broken down fence owned by Julien Sierra 250 varas; thence northwest by land belonging to Felipe Gloria on a line 313 varas; thence east by land in the name of Alexandre Trevino 250 varas, to the place of beginning; it being the same land which was granted by the Corporation of Matamoras on the 12th day of April, A. D. 1824, to this vendor, as appears from the corporation deed: now, therefore, be it known that I, the said Marzario Garza, have ratified and confirmed, and by these presents do ratify and confirm, the said deed made and executed by me in favor of O. F. Janes, and recorded in book *H*, page 129, of Cameron County, hereby vesting the title of the said lands in the said O. F. Janes, his heirs, executors, administrators, or assigns, forever, without any reservation whatever in my heirs or assigns. Given under my hand and seal, the seal being a scrawl, at Brownsville, this twenty-third day of May, A. D. eighteen hundred and forty-nine.

his
NARZARIO + GARZA. [SEAL.]
mark.

Signed, sealed, and delivered in the presence of—

R. H. HORD,
J. B. BIGELOW.

THE STATE OF TEXAS,
County of Cameron.

Before me, Israel B. Bigelow, Chief Justice and ex-officio Notary Public in and for the County of Cameron, State of Texas, personally came and appeared, Narzario Garza, to me well and intimately known, and acknowledged that he had signed, sealed and delivered the within and foregoing instrument of writing or deed of conveyance, bearing date the 23d day of May, A. D. 1849, for the purpose therein set forth and expressed. In testimony whereof, I have hereunto affixed my name and seal of office, at office in the town of Brownsville, in Cameron County, this 20th day of June, A. D. 1849.

[SEAL.]

J. B. BIGELOW,

Chief Justice of the County of Cameron, State of Texas.

THE STATE OF TEXAS,
Cameron County.

I, Clerk of the County Court in and for the County and State aforesaid, do hereby certify that the foregoing instrument of writing was filed for record in my office on the 19th day of December, A. D. 1850, at 7 o'clock P. M., and was duly recorded on the next day in Book

"D" of Real Estate, pages 211 and 212. To certify which, witness my hand and seal of office this the 20th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,
Clk C. C. C. C.
 By B. H. FRY,
Dep'ty.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, Plaintiffs,
 and

CHARLES STILLMAN *et aliis*, Defendants.

Twenty-fourth December, 1850. At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS,
Com.

Exhibit 18.

REPUBLIC OF MEXICO,
City of Matamoras.

Know all men by these presents, that I, Onofre Rebalcaba, of Matamoras, Mexico, for and in consideration of the sum of one dollar, (and former consideration,) to me in hand paid by Manuel Trevino, of Matamoras, Mexico, and before the signing, sealing and delivering of these presents, have bargained, granted, sold and conveyed, and by these presents do bargain, grant, sell and convey unto the said Manuel Trevino, his heirs and assigns, all that certain tract or parcel of land lying and being situated in the County of Cameron, State of Texas, within what is termed the "Exidos" of the City of Matamoras, situated on the left bank of the Rio Grande, being a labor of land granted by the Honorable Corporation of the City of Matamoras to Onofre Rebalcaba aforesaid, (and by me, the said Rebalcaba, previously sold to Manuel Trevino, alias Canales, this given to assure said transfer,) and according to the survey of Geo. Lyon, Deputy Surveyor of the Land District of San Patricio and Nueces. Situated and containing the following boundaries and areas, to wit: Beginning at the corners of the labors granted by the Honorable Ayuntamiento of the City of Matamoras to Ignacio Flores, Manuel Trevino, and Onofre Rebalcaba, being the point of junction of the remains of the fences of the labors aforesaid. Thence, with the dividing fence of the labors of the aforesaid Manuel Trevino and Onofre Rebalcaba, N. 37° W. 415 varas to the labor of Leandro Martinez. Thence, with the labor of the said L. Martinez, N. 64° 30' E. 285 varas, N. 20° 45' E. 60 varas, N. 87° 15' E. 70 varas, N. 76° 15' E. 40 varas, N. 20° W. 62 varas, N. 9° 30' W. 50 varas, to the "resaca de las homillas," N. 9° 30' W. 180

varas, to the northwest corner of the labor of the aforesaid Leandro Martinez, being situated on *on* the north bank of the aforesaid resaca, (for the N. E. corner of this survey.) Thence, with the remains of an old fence, N. $86^{\circ} 15'$ E. 170 varas, S. $32^{\circ} 30'$ E. 54 varas to the south side *of the* resaca aforesaid, S. $43^{\circ} 30'$ E. 300 varas, to the N. W. corner of a labor granted to F. Thence, with the labor aforesaid, S. 1° E. 155 varas, S. 2° W. 230 varas to the N. W. corner of a labor granted to Catarina Vela. Thence, with the aforesaid labor, S. $46^{\circ} 45'$ W. 200 varas, S. 42° W. 198 varas, to the N. E. corner of a labor granted to Ignacio Flores. Thence, with the labor aforesaid, N. $54^{\circ} 15'$ W. 270 varas, to the place of beginning. Containing sixty-three $\frac{38}{100}$ ($63\frac{38}{100}$) acres. Together with all and singular the improvements, rights, hereditaments, appurtenant or in anywise appertaining. To have and to hold the said labor, tract, or parcel of land, rights, improvements, &c., hereby granted, or mentioned or intended so to be, unto the said Manuel Trevino, his heirs and assigns, forever. In witness whereof, I have hereunto set my hand and affixed my seal at this fifteenth (15) day of December, one thousand eight hundred and forty-eight.

Signed, sealed and delivered in presence of witnesses—"of Matamoras, Mexico"—inserted before signing.

ONOFRE ROBALCAVA,
(Rubrica.)

F' R R. GRACESQUI,
(Rubrica.)

JAMES C. WETMORE,
(Rubrica.)

[For Plan, see original, page 1438.] Scale: 400 varas to the inch.
Magnetic variation, $8^{\circ} 58'$ E.

CONSULATE OF THE U. S. A.,
Matamoras, Mexico.

I, Thomas W. Slemmons, of the United States of America for the port of Matamoras, do hereby certify that Onofree Rebalcava, who attests the annexed document under his own proper signature, to me the said consul well known, is the same he uses in all his transactions, and acknowledged by him before me as such. In testimony whereof, I hereunto subscribe my name and affix the seal of my office, this 15th day of December, 1848.

[SEAL.]

THOS. W. SLEMMONS.

THE STATE OF TEXAS,
County of Cameron.

Before me, Clerk of the County Court in and for the County and State aforesaid, personally appeared Francis B. Gralesqui, a subscribing witness to the foregoing instrument of writing, to me well known, who, being duly sworn by me, deposes and says, that he saw Onofre Rebalcava sign, seal, and deliver the same, and that at the request

of the said Onofre Rebalcaba he signed the same as a witness. To certify which,

Witness my hand and seal of office, this the 19th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,

C'lk C. C. C. C.

By B. H. FRY,
Dep'ty.

THE STATE OF TEXAS,
County of Cameron.

I, Clerk of the County Court in and for the County and State afore-said, do hereby certify that the foregoing instrument of writing was filed for record in my office on the 19th day of December, A. D. 1850, at 7 o'clock P. M., and was duly recorded on the next day in Book "D" of Real Estate, pages 232, 233, and 234, and 235. To certify which,

Witness my hand and seal of office, this 20th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,

C'lk C. C. C. C.

By B. H. FRY,
Deputy.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, Plaintiffs,
and

CHARLES STILLMAN *et aliis*, Defendants.

Twenty-fourth December, 1850.—At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS,
Com.

CONSULATE OF THE U. S. A.,
Matamoras, Mexico.

I, Thomas W. Slemons, consul of the United States of America for the port of Matamoras, do hereby certify that Joaquin Arguelles, who attests the above document under his own proper signature, to me the said consul well known, is now, and was at the time of signing the same, a notary public in and for the city and port of Matamoras, and that to his acts as such full faith and credit are given in and out of judicature.

In testimony whereof, I hereunto subscribe my name and affix the seal of my office, this twelfth day of October, 1848.

[SEAL.]

THOMAS W. SLEMONS.

In Chancery.

Between RAFAEL GARCIA CABAZOS *et aliis*, Plaintiffs,
and

CHARLES STILLMAN *et aliis*, Defendants.

Twenty-fourth December, 1850.—At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and *and* examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me.

G. N. REYNOLDS,
Com.

Exhibit 27.

Know all men by these presents, that I, Roderigo Inojosa, citizen of _____ for and in consideration of the sum of _____ to me in hand paid by Francisco Fragosa, the receipt whereof is hereby acknowledged before the signing, sealing, and delivering of these presents, by these presents have bargained, granted, sold, released and conveyed, and by these presents do bargain, grant, sell, release and convey unto the said Francisco Fragosa, his heirs and assigns, all that certain tract, parcel or labor of land lying and being situate in what is termed the "Exidos" of the city of Matamoras, on the left bank of the Rio Grande, in Cameron county, State of Texas, and as per map and survey made by George Lyon, deputy surveyor of the land district of San Patricio and Nueces, described as follows, viz:

Beginning at the S. E. corner of a grant made to Catarina Vela and Roderigo Inojosa; thence with the remains of the dividing fence of the said Roderigo Inojosa, S. 6 varas, N. 79° 15' E. 530 varas, N. 24° 15' W. 100 varas, N. 5° W. 68 varas, N. 71° 30' E. 110 varas, N. 83° E. 45 varas, N. 30° 15' E. 256 varas, N. 71° 30' W. 10 varas, S. 81° 30' W. 220 varas, S. 83° 30' W. 130 varas, S. 82° 45' W. 125 varas, to the labor granted to Francisco Fragosa; thence with the remains of the dividing fence of the said Fragosa and Inojosa S. 32° W. 114 varas, to the N. E. corner of a labor granted to Catarina Vela; thence with the dividing fence of the said Fragosa and Vela, S. 34° 45' W. 119 varas, S. 34° 15' W. 200 varas, S. 16° 30' W. 45 varas, S. 82° W. 14 varas, to the place of beginning, containing thirty-four $\frac{11}{100}$ ($34\frac{11}{100}$) acres of land, situated on the N. E. side of the Rio Grande, within the town of Brownsville, granted to Roderigo Inojosa; together with all the improvements, hereditaments, and everything thereunto appurtenant, or in anywise appertaining; to have and to hold the said tract, parcel and labor of land, with all and everything thereunto appurtenant, or in anywise appertaining unto the said Francisco Fragosa, his heirs and assigns, forever.

In witness whereof, I have hereunto set my hand and affixed my seal,

(using scroll for seal,) this 12th day of February, one thousand eight hundred and forty-nine (1849.) Done at Matamoras, Mexico.

his
RODERIGO + DE INOJOSA. [L. s.]
mark.

Signed, sealed, and delivered in presence of witnesses.

J. N. REYNOLDS.

W. H. BOWNE.

CONSULATE OF THE UNITED STATES OF AMERICA,
Matamoras, Mexico.

I, Thomas W. Slemons, consul of the United States of America for the port of Matamoras, do hereby certify that de Inojosa (to me the said consul well known) personally came and appeared before me, and after having the within document or title-deed fully explained and interpreted to him, the said Inojosa signed, sealed, and delivered the same as his voluntary act and deed.

In testimony whereof, I hereunto subscribe my name and affix the seal of my office, this twelfth (12) day of February, one thousand eight hundred and forty-nine (1849.)

[SEAL.]

THOMAS W. SLEMONS.

THE STATE OF TEXAS,
County of Cameron.

Before me, clerk of the county court in and for the county and State aforesaid, personally appeared J. N. Reynolds, a subscribing witness to the foregoing instrument of writing, to me well known, who, being duly sworn, stated that he saw Roderigo de Inojosa sign, seal, and deliver the same, and that at the request of the said Inojosa he had signed the same as a witness.

To certify which, witness my hand and seal of office, this 20th day of December, A. D. 1850.

[SEAL.]

F. W. LATHAM,
Clerk, C. C. C. C.

By B. H. FRY, *Dep'ty.*

THE STATE OF TEXAS,
County of Cameron.

I, clerk of the county court in and for the county and State aforesaid, do hereby certify that the foregoing instrument of writing was filed for record in my office on the 20th day of December, A. D. 1850, at 3 p. m., and was duly recorded on the same day in "Book" of Real Estate, pages 236, 237, and 238.

To certify which, witness my hand and seal of office, this 20th December, 1850.

[SEAL.]

F. W. LATHAM,
Clerk, C. C. C. C.
By B. H. FRY, *Dep'ty.*

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et aliis*, Plaintiffs,
and

CHARLES STILLMAN *et aliis*, Defendants.

Twenty-fourth December, 1850.—At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to Budd H. Fry, a witness sworn and examined, and by him deposed unto at the time of his examination on the defendants' behalf, before me.

J. N. REYNOLDS, *Commissioner*.

No. 12.

Deposition of George W. Smith, and all the documents accompanying the same, except the caveat.

[Commission.]

The President of the United States to Thomas H. Duval, of the county of Travis, of the State of Texas, greeting:

Know ye that I, in consequence of your prudence and fidelity, have appointed and do by these presents give unto you full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a cause now depending and at issue in the district court of the United States for the district of Texas, wherein Rafael Garcia Cavazos and others are complainants, and Charles Stillman and others are defendants; and therefore I command that you do, at certain days and places to be appointed for that purpose, cause the witnesses named in the title to said interrogatories, or such of them as shall be delivered to you, to come before you, and then and there examine them apart upon the said interrogatories, either upon their respective corporal oaths, first taken before you upon the Holy Evangelists, or, in case of Quakers, upon their solemn affirmation and declaration, or in such solemn manner as is or may be authorized by law, and that you do take such their examinations, and reduce them into writing; and when you shall have so taken them, you are to send the same to the clerk of the above mentioned court without delay, whatsoever it shall be, closed up, and under your seal distinctly and plainly set, together with the said interrogatories and this writ.

And I further command you that, before you act in, or be present at the swearing or examining any witnesses, you do take and subscribe the oath specified in the schedule hereunto annexed, before a commissioner of the United States, or a judge of some court of record.

Witness, the Honorable John C. Watrous, judge of said court, and seal of court, this second day of November, in the year of our

Lord one thousand eight hundred and fifty, and of the independence of the United States of America the 75th year.

[L. S.]

JAMES LOVE, *Clerk.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

[Interrogatories.]

Interrogatories to be propounded to George W. Smith, *of the county of the county of Travis*, a witness to be produced, sworn, and examined in a certain cause now depending in chancery in the district court of the United States in and for the district of Texas, wherein Rafael Garcia Cavazos and his wife, and Estefana Gozeascochea de Cortina, are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela Safen de Tarneva, Ramon Safen, Feliciana de Tigerina, and José Manuel de Prieto are defendants, on the part of said defendants, Stillman, Belden, and Mussina.

Interrogatory first. Do you know the parties to this cause, or any and whom of them?

Interrogatory second. What office do you hold, exercise, and perform the duties of under and by the authority of the State of Texas, and how long have held such office and been occupied in discharging the duties thereof?

Interrogatory third. Are you or are you not commissioner of the general land office of the State of Texas? If yea, how long have you been such officer, and are there or are there not in said general land office and under your control, all or some of the following described certificates, with the surveys and field notes attached or annexed, returned therewith, made by George Lyon, deputy surveyor for the land or surveyor's district of San Patricio and Nueces. First. A certificate of David Snively, numbered (39,) issued by the board of land commissioners for the county of Refugio, for three hundred and twenty acres of land. Second. Certificate numbered one hundred and eleven, issued by the board of land commissioners of the county of Victoria to J. W. B. MacFarland for one-third of a league of land; also, a certificate issued by the board of land commissioners for the county of Nueces, numbered 36, and for 1,280 acres of land to Estevan Valareal? also, a certificate or land warrant issued by the commissioners of the general land office to Jacob Snively, numbered for nine hundred and sixty acres of land? also, a certificate issued by the board of land commissioners of the county of Nueces, numbered 18, to Sabas Madrano for 640 acres of land? and are or are not in your said office field notes, plats, and surveys, or evidences of surveys, made on some or all of the aforementioned certificates, and purporting to have been made on any land or lands near or adjoining or including the town of Brownsville, in the months of October, November, or December, of the year 1848, or at some other and what time, by George Lyon,

deputy surveyor for said land or surveyor's district of San Patricio and Nueces ; if any such certificates or certificate are to be found in your office, together with said field notes, plats, or evidences survey, please attach the same to your answer, if you can do so ; if you cannot, then attach copies thereof, as far as in your power ; and if you can do neither, then state the reason why you cannot do so.

Interrogatory third, and last. Do you know or can you set forth any other matter or thing which can be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

OVID F. JOHNSON,

J. A. SWETT,

*Solicitors for defendants, Charles Stillman,
Samuel A. Belden, and Jacob Mussina.*

I, James Love, clerk of the district court of the United States for the district of Texas, do hereby certify the foregoing and within to be true copies of the interrogatories filed in my office October 31, 1850, in the case of D. Rafael Garcia Cavazos *et als.* against Charles Stillman *et als.*

JAMES LOVE, *Clerk.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }

vs.

CHARLES STILLMAN and others. }

[Cross-interrogatories.]

The complainants in the above entitled cause, reserving their objections to the interrogatories propounded by Charles Stillman, Samuel A. Belden, and Jacob Mussina, then of the defendants, propound on their part the following cross-interrogatories to George W. Smyth, of the county of Travis :

Cross-interrogatory first. Did not Mr. John or Juan Treanor, about the 18th of December, 1848, present to you, to be filed in the general land office of the State of Texas, a document purporting to be a testimonio of a title to about sixty leagues of land on the left bank of the Rio Grande, granted in 1781 to D. José Salvador de la Garza, and what answer did you make to him respecting this application? Did you not refuse to receive said testimonio for registration, and why? Were you not the commissioner of said general land office?

Cross-interrogatory second. Did you not receive a caveat from William G. Hale as attorney for some of the Mexican owners of said tract of land, warning you not to issue patents or secure field notes of surveys made on said tract, under color of headright certificates?

If so, annex a copy of said *caveat* to your answer, and state when you received it.

EBN. ALLEN & WM. G. HALE,
Of Counsel for Complainants.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

I, James Love, clerk of the district court of the United States for the district of Texas, do hereby certify that the annexed and foregoing is a true copy of the original cross-interrogatories filed in my office.

Test,

JAMES LOVE, *Clerk.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas.
In Chancery.

RAFAEL GARCIA CAVAZOS *et als.* }
vs. }
CHARLES STILLMAN *et als.* }

[Answers.]

Be it remembered that I, Thomas H. Duval, of the city of Austin, State of Texas, by virtue of a commission issuing out of the district court of the United States in and for the district of Texas, on the second day of November, A. D. 1850, directed for the examination of witnesses in the above entitled cause depending and at issue in said court, having first taken the oath annexed to the said commission, as thereby directed, did cause the witness, George W. Smyth, personally to come before me, and, having duly administered an oath to him that the answers given by him to the annexed interrogatories and cross-interrogatories should be the truth, the whole truth, and nothing but the truth, thereupon proceeded to examine him in reference to said interrogatories, when he deposed and said as follows:

To the first interrogatory: This deponent saith that he is not, to his knowledge or recollection, acquainted with any of the parties to this suit.

To the second interrogatory: This deponent saith that he now holds and performs the duties of the office of commissioner of the general land office of the State of Texas, which office he came into on the 21st day of March, A. D. 1848.

GEORGE W. SMYTH.

To the third interrogatory: This deponent saith that all the certificates and field notes described in the third direct interrogatory aforesaid are on file in the general land office of this State, except that the certificate of David Snively, No. 39, for 320 acres of land, was issued by the board of land commissioners of Nueces county, instead of Refugio county. The surveys are dated in November and December, 1848; they were made by George Lyon, deputy surveyor, and this locality includes the town of Brownsville and its vicinity. The surveys are not represented on the map, but their connexions are sufficient to enable the draughtsman of the general land office to

place them on the same. There are no plats of said surveys except such as are upon the field notes. For answer to the first part of this interrogatory the deponent refers to his answer to the second direct interrogatory. The certificates and field notes above referred to are hereunto attached, marked *A, B, C, D, E*, and made a part of this answer.

To the last direct interrogatory: This deponent saith that he is not apprised of any other matter or thing which would be a benefit or advantage to the parties at issue in this cause, further than may be contained in his answers to the direct and cross interrogatories herein propounded to him.

GEO. W. SMYTH.

UNITED STATES OF AMERICA, }
District of Texas, City of Austin, } ss.

[Certificate.]

I do hereby certify, that on this fourth day of February, A. D. 1851, I was attended by the witness, George W. Smyth, who is of sound mind and lawful age, who was by me carefully examined and cautioned, and sworn to testify the whole truth, and thereupon his answers to the interrogatories hereunto annexed were by me reduced to writing, and after carefully reading the same to the witness, he subscribed the same in my presence.

I further certify that I am not of counsel or attorney to any of the parties to the suit in which this deposition has been taken, or in any-wise interested in the event of the same.

THOS. H. DUVAL,
U. S. Commissioner, &c.

[Objections.]

The defendants, Stillman, Belden, and Mussina, having offered in evidence at the hearing the deposition of George W. Smyth, except the answers to his cross-interrogatory, and having also offered to read the copies of papers attached to the deposition and marked *A, B, C, D, E*, the complainants objected to the admission of the said copies in evidence for the following reasons:

1st. Because the assignments of the headright certificates, on which the surveys purport to have been made, have not been proved, and the surveys do not appear to have been legally made.

2d. Because the signatures of the officers to the certificates and surveys have not been proved.

3d. Because the testimony offered is irrelevant, and does not tend to prove the issues or the allegations in the answers of the defendants.

But the objections were overruled by the court, and the testimony admitted.

JAMES LOVE, *Clerk.*

Exhibit A.

THE STATE OF TEXAS,
Nueces County.

Class 2d, No. 18.

This is to certify that Sabas Medrano is entitled to an unconditional certificate as a headright and as a single man, to six hundred and forty acres of land as a citizen of the republic of Texas, under the law passed and approved December 14, A. D 1837, he having appeared before the board of land commissioners and proved according to law that he is entitled to the same.

In testimony whereof we, the board of land commissioners, issue this certificate. Given in the town of Corpus Christi, January 10, 1848, and signed with private seal, there being no official seal.

E. M. HAINES,

Board Land Commissioners, Nueces County, ex-officio Clerk.

[SEAL.]

J. BENTON JOHNSON,

Chief Justice, Nueces County.

RICHARD POWER,

CONRAD MENLY,

Associate Commissioners.

GENERAL LAND OFFICE,

Austin, January 9, 1851.

I, George W. Smyth, commissioner of the general land office of the State of Texas, certify that the foregoing is a correct copy of the original on file in this office.

In testimony whereof I have caused the seal of said court to be affixed the date above written.

[SEAL.]

GEO. W. SMYTH, *Commissioner.*

STATE OF TEXAS,

District of San Patricio and Nueces.

[See original, p. 1500.]

Var. 8° 58' E.

Survey for Charles Stillman, assignee of David Snively, assignee of Sabas Medrano, of 440 acres of land, situated on the N. E. side of the Rio Grande, about half of a mile below the town of Brownsville, in the county of Cameron, being the quantity of land to which he is entitled by virtue of certificate No. 18, issued by the board of land commissioners for the county of Nueces, on the 10th day of January, 1848, beginning on the bank of the Rio Grande, at the lower or S. E. corner of a survey in the name of David Snively, of whom Charles Stillman is the assignee; thence N. 45° E. with the survey aforesaid 476 varas to a bend of the lake, thus ((, at 748 left said bend, 1833 varas, set stake for the N. W. corner, whence musquite marked X bears S. 41° W. 10 varas, musquite marked X bears S. 11° E. 7 varas; thence S. 45° E. at 1078 varas, set stake for the N. E. corner; whence musquite X bears N. 14° W. 1 vara; also ebony marked X bears S. 35° W. 8 varas; thence S. 45° W. 10 varas to resaca 140 varas

wide, 842 varas to bend of a resaca, thus *a*, at 1522' left bend of resaca 3812 varas to the bend of the Rio Grande. Set stake and mound for the S. E. corner; thence up with the meanders of the Rio Grande N. 51° W. 210 varas, N. 14° W. 153 varas, N. 3° 15' E. 420 varas to the place of the beginning.

GEORGE LYON,

Deputy Surveyor for the District of San Patricio and Nueces.

SAMUEL GOLSTON, }
SANTIAGO CASES, } *Chain Carriers.*

I, George Lyon, deputy surveyor for the district of San Patricio and Nueces, do solemnly swear, under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 22d day of November, 1848, and that the lines, boundaries and corners, together with all marks, natural and artificial, are truly described therein.

Witness my hand this the 23d day of November, 1848.

GEORGE LYON,

Deputy Surveyor.

I, J. Snively, surveyor, &c., do certify that I have examined the foregoing plot and field notes, and find them correct, and the survey made according to law, and that the said field notes are recorded in book H, pages 33 and 34.

Given under my hand this 10th January, 1849.

J. SNIVELY,

Surveyor of the District of San Patricio and Nueces.

GENERAL LAND OFFICE,

Austin, January 9, 1851.

I, George W. Smyth, commissioner of the general land office of the State of Texas, certify that the foregoing is a correct copy of the original on file in this office.

In testimony whereof, I have caused the seal of this the said office to be affixed the date above written.

[SEAL.]

GEO. W. SMYTH, *Commissioner.*

Exhibit B.

No. 111—Class No. 2.

REPUBLIC OF TEXAS,

County of Victoria.

This is to certify that John W. B. McFarland has appeared before us, the board of land commissioners for the *county* aforesaid, and proved, according to law, that he arrived in this republic subsequent to the declaration of independence, and previous to the first of August,

1836; that he is a single man, and entitled to one-third of a league of land, to be surveyed after the first day of August, 1838.

Given under our hands, at Victoria, this 6th day of September, A. D. 1838.

Attest:

Q. W. MOODY, *Clerk.*
JOHN HAYS, *President.*
JOHN McHENRY,
ARTHUR BURNS,
Associate Commissioners.

GENERAL LAND OFFICE,
Austin, January 9, 1851.

I, George W. Smyth, commissioner of the general land office of the State of Texas, certify that the foregoing is a correct copy of the original on file in this office.

In testimony whereof, I have caused the seal of said office to be affixed, the date above written.

[SEAL]

GEO. W. SMYTH, *Commissioner.*

STATE OF TEXAS,

District of San Patricio and Nueces.

Survey for Charles Stillman, assignee of David Snively, assignee of J. W. B. McFarland, of 8,038,970 $\frac{1}{2}$ square varas of land, situated on the N. E. side of the Rio Grande, including a part of the town of Brownsville, in the county of Cameron:

Being a part of the quantity of land to which he is entitled by virtue of certificate No. 111, issued by the board of land commissioners for the county of Victoria, on the 6th day of September, 1838.

Beginning at a stake and mound on the bank of the Rio Grande, near the lower or S. E. corner of a survey in the name of J. Baxter, "the old corner of said survey being washed in," for the S. W. corner of this survey; thence N. 45° E., with the survey aforesaid, 2389 varas, passed the N. E. corner of the survey of the said J. Baxter; continued N. 45° E. 2440 varas, to a resaca 480 varas wide, 3800 varas to a road leading from Brownsville to Point Isabel, 4470 varas to a resaca 80 varas wide, at 5217 varas set stake for N. W. corner; whence an ebony marked + bears S. Co. E. 14 varas; ebony marked + bears S. 38° E. 20 varas; thence S. 45° E. 102 varas, to a resaca 30 varas wide; at 1444 varas set stake for N. E. corner, whence a musquite marked + bears S. 55° 30' W. 36 varas; also a musquite marked + bears S. 76° W. 44 varas; thence S. 45° W. at 1769 varas passed the N. W. corner of a survey in the name of David Snively, 2400 varas to a resaca 222 varas wide, 4437 varas to the bank of the Rio Grande; set stake and mound on the levee of the town of Brownsville for the S. E. or lower corner; thence up with the meanders of the Rio Grande, in front of Matamoras, Mexico, N. 49° 30', W. 144 varas, S. 31° 15' W. 1220 varas, S. 25° 30' W. 410 varas, to the N. E. corner of a labor, grant made to ——— Cavazos, on the corporation of Matamoras, Mexico, and since transferred to P. C. Shannon; set stake and mound; thence with the fence of the said

labor, across the bend of the Rio Grande, N. 20° W. 255 varas, N. 8° W. 147 varas, N. 25° W. 95 varas, N. 70° W. 110 varas, S. 6° W. 52 varas, N. 84° W. 199 varas, to the bank of the Rio Grande, a large musquite post marked + for corner; thence up with the meanders of the Rio Grande, N. 42° E. 33 varas, N. 21° E. 660 varas, N. 2° 30' W. 370 varas, N. 34° 15' W. 370 varas, N. 80° 30' W. 130 varas, to the place of beginning. This survey contains all arable lands.

GEORGE LYON,

Deputy Surveyor of the District of San Patricio and Nueces.

SAMUEL GOLSTON, }
SANTIAGO CASSAS, } *Chain Carriers.*

I, George Lyon, deputy surveyor for the district of San Patricio and Nueces, do solemnly swear, under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 6th day of November, 1848, and that the lines, boundaries, and corners of the same, together with all marks, natural and artificial, are truly described therein.

Witness my hand this first day of February, A. D. 1849.

GEORGE LYON,

Deputy Surveyor.

I, J. Snively, &c., do certify that I have examined the foregoing plot and field notes, and find them correct, and the survey made according to law, and that the said field notes are recorded in book A, No. 3, pages 117 and 118.

Given under my hand at Corpus Christi, this 28th February, 1849.

J. SNIVELY,

*Surveyor of the District of San Patricio
and Nueces.*

GENERAL LAND OFFICE.

Austin, Jan'y 9th, 1851.

I, Geo. W. Smyth, commissioner of the general land office of the State of Texas, certify that the foregoing is a correct copy of the original on file in this office.

In testimony whereof, I have caused the seal of said office to be affixed the date above written.

[SEAL.]

GEO. W. SMYTH,
Commissioner.

Exhibit C.

THE STATE OF TEXAS,
Nueces county.

Second Class. No. 36.

This is to certify that Esteban Villareal has applied before the board of land commissioners for this county, and proven, according to law, that he is entitled, as a man of family and emigrant, to an

unconditional headright certificate to twelve hundred and eighty (1280) acres of land, under the law passed and approved 14th Dec., 1837, granting land to emigrants arrived in the republic of Texas, prior to this act, and subsequent to the declaration of independence, as a man of family.

In testimony whereof we sign this certificate with private seal, there being county court seal. Done in the town of Corpus Christi, this January 20th, A. D. 1848.

[SEAL.]

J. BENTON JOHNSON,
Chief Justice and ex-officio Pres't B'rd
Land Commissioners.

CONRAD MENLIS,
County Comm'r.

Attest:

E. M. HAINES,
Clerk County Court, and ex-off. Clerk
Board Land Commissioners.

By H. A. GILPIN,
Dep'ty.

GENERAL LAND OFFICE,
Austin, 9th January, 1851.

I, Geo. W. Smith, commissioner of the general land office of the State of Texas, do hereby certify that the foregoing is a correct copy of the original on file in this office.

In testimony whereof, I have hereunto set my hand and caused the seal of said office to be affixed, the day and date above written.

[L. S.]

GEO. W. SMYTH,
Commissioner.

STATE OF TEXAS,

District of San Patricio and Nueces.

[See original, p. 1506.] Survey of Charles Stillman, assignee of David Snively, assignee of Estavan Villarreal, of 1280 acres of land, situated on the N. E. side of the Rio Grande, about one mile below Brownsville, in the county of Cameron, being the quantity of land to which he is entitled by virtue of a certificate, No. 36, issued by the board of land commissioners for the county of Nueces, on the 21st day of January, 1848, beginning on the bank of the Rio Grande, at the lower or southeast corner of a survey in the name of Sabas Madrano, of whom Charles Stillman is the assignee, whence N. 45° E. with the aforesaid survey 2390 varas to a bend of a resaca thus)) 580 varas, crosses said bend at 3490 varas to a resaca bearing N. W. 140 varas wide, at 3690 varas passed the N. W. corner of the survey aforesaid 6170 varas to a resaca 50 varas wide, running N. W., at 6337 varas set a post for the N. W. corner; whence an ebony marked ✕ bears S. 18° E. 11 varas, also an ebony marked ✕ bears S. 46° W. 13 varas. Thence S. 45° E. 170 varas to a resaca 30 varas wide, running N. E. 660 varas to a resaca 50 varas wide, at 1340 varas set post for the

N. E. corner ; whence a mesquite marked $\bowtie$ bears S. 57° E. 8 varas, also a mesquite $\bowtie$ bears S. 87° W. 13 varas. Thence S. 45° W. 700 varas to a resaca 50 varas wide, 3871 varas to the bank of the Rio Grande, set a post and mound for the S. E. or lower corner. Thence up with the meanders of the Rio Grande N. $60^{\circ} 45'$ W. 55 varas, S. $30^{\circ} 30'$ W. 470 varas, S. 57° W. 110 varas, S. $25^{\circ} 30'$ W. 860 varas, S. $49^{\circ} 15'$ W. 390 varas, S. $74^{\circ} 45'$ W. 180 varas, S. 61° W. 50 varas, West 230 varas, N. 50° W. 190 varas, N. $25^{\circ} 30'$ E. 200 varas, N. $46^{\circ} 30'$ E. 850 varas, N. $10^{\circ} 30'$ E. 500 varas, N. $51^{\circ} 15'$ W. 480 varas, N. $67^{\circ} 30'$ W. 310 varas, S. 41° W. 1010 varas, S. $57^{\circ} 45'$ W. 570 varas, N. 53° W. 50 varas to the place of beginning.

GEORGE LYON, *Deputy Surveyor*
of the District of San Patricio and Nueces.

SAM'L GILPIN,
SANTIAGO CASSUS,
Chain Bearers.

I, George Lyon, deputy surveyor for the district of San Patricio and Nueces, do solemnly swear, under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 27th day of November, 1848, and that the lines, boundaries and corners, together with all marks, natural and artificial, are truly described therein.

Witness my hand, this 30th day of November, 1848.

GEORGE LYON,
Deputy Surveyor.

I, J. Snively, surveyor of the district of San Patricio and Nueces, do certify that I have examined the foregoing plot and field notes and find them correct, and the survey made according to law, and that the said field notes are recorded in book *H*, pages 37 and 38. Given under my hand, at Corpus Christi, the 10th January, 1849.

J. SNIVELY,
Surveyor of the District of San Patricio and Nueces.

GENERAL LAND OFFICE,
Austin, January 9, 1851.

I, Geo. W. Smyth, commissioner of the general land office of the State of Texas, do hereby certify that the foregoing is a true copy of the original on file in this office.

In testimony whereof I have hereunto set my hand and caused the seal of said office to be affixed the day and date above written.

[L. s.]

GEO. W. SMYTH,
Commissioner.

Exhibit D.

No. $\frac{533}{832}$.

GENERAL LAND OFFICE,
Austin, April 6, 1847.

This is to certify that Jacob Snively is entitled to have surveyed, by any legally authorized surveyor, upon any of the vacant and unap-

propriated public domain of the State of Texas, nine hundred and sixty acres of land, it being the unlocated balance of the land warrant No. 498 issued by the War Department to the said Jacob Snively for twelve hundred and eighty acres of land, dated the 24th day of November, 1837.

In testimony whereof I hereunto set my hand and affix the seal of said office the day and date first above written.

THOS. WM. WARD,
Commissioner.

GENERAL LAND OFFICE,
Austin, January 9, 1851.

I, Geo. W. Smyth, commissioner of the general land office of the State of Texas, do hereby certify that the foregoing is a true copy of the original on file in this office.

In testimony whereof I have hereunto set my hand and caused the seal of said office to be affixed the date above written.

[L. S.]

GEO. W. SMYTH,
Commissioner.

STATE OF TEXAS,

District of San Patricio and Nueces.

[See original, page 1509.]

Var. $8^{\circ} 58'$ E.

Survey for Charles Stillman, assignee of Jacob Snively, of 960 acres of land, situated on the N. E. side of the Rio Grande, about $1\frac{1}{2}$ miles below the town of Brownsville, in the county of Cameron, being a part of the quantity of land to which he is entitled by virtue of land warrant No. $\frac{5}{6}\frac{3}{4}\frac{3}{4}$ issued by the commissioners of the general land office on the 6th day of April, 1847.

Beginning on the bank of the Rio Grande, at the lower or S. E. corner of a survey in the name of Estevan Vallareal, of whom Charles Stillman is the assignee, thence N. 45° E., with the survey aforesaid, 3,100 varas to a resaca 50 varas wide, at 3,871 varas passed the N. E. corner of the survey aforesaid, at 4,659 varas set post for the N. W. corner, whence a mesquite marked $\bowtie$ bears N. 44° E. 5 varas, also a mesquite marked $\bowtie$ bears S. 86° E. 7 varas; thence S. 45° E., at 1,145 varas set post for the N. E. corner, whence a mesquite marked $\bowtie$ bears S. 69° E. 10 varas, also a mesquite marked $\bowtie$ bears N. 13° W. 2 varas; thence S. 45° W. 1,470 varas to a resaca 50 varas wide, bearing N. W. 4,709 varas to the bank of the Rio Grande, set post for the S. E. or lower corner; whence a Tapewaga marked $\bowtie$ bears N. 48° E. 100 varas, also an ebony marked $\bowtie$ bears N. 89° E. 110 varas; thence up with the meanders of the Rio Grande N. 12° W. 300 varas, N. 22° W. 240 varas, N. $60^{\circ} 45'$ W. 745 varas to the place of beginning.

GEORGE LYON,
Deputy surveyor for the District of San Patricio and Nueces.

SAM'L GILSTON,
SANTIAGO CASSUS,

Chain Carriers.

I, George Lyon, deputy surveyor for the district of San Patricio and Nueces, do solemnly swear, under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 1st day of December, 1848; and that the lines, boundaries and corners, together with all marks, natural and artificial, are truly described therein.

Witness my hand, this the 2d day of December, 1848.

GEORGE LYON,
Deputy Surveyor.

I, J. Snively, surveyor, &c., do certify, that I have examined the foregoing plot and field notes, and find them correct, and the survey made according to law; and that the said field notes are recorded in Book C, page 163.

Given under my hand, at Corpus Christi, this 31st January, 1849.

J. SNIVELY,
Surveyor of the District of San Patricio and Nueces.

GENERAL LAND OFFICE,
Austin, January 9, 1851.

I, Geo. W. Smyth, commissioner of the General Land Office of the State of Texas, do hereby certify, that the foregoing is a true copy of the original on file in this office.

In testimony whereof, I have hereunto set my hand, and caused the seal of said office to be affixed, the day and date above written.

[L. S.]

GEO. W. SMYTH,
Commissioner.

Exhibit E.

THE STATE OF TEXAS, }
County of Nueces. } No. 30. 3d Class.

This certificate entitles David Snively to to an unconditional head-right for (320) three hundred and twenty acres of land, he having appeared and proven to this board that he is entitled to the same, under the law approved 17th January, 1842, as a single man, and made oath that he has never previous to this time applied for or obtained his headright.

Given at office, in the town of Corpus Christi, the third day of January, one thousand eight hundred forty-eight, as witness hand and private seal, (having no seal of county,) this day and year aforesaid.

[L. S.]

J. BENTON JOHNSON,
Chief Justice N. C., ex-officio Pres. Bd. Land Commrs.
CONRAD MENLY, *Associate Commrs.*

Test: E. M. HAINES, *Clerk*

C. C. N. C., and ex-officio C. B'rd Land Commrs.

GENERAL LAND OFFICE,
Austin, January 9, 1851.

I, Geo. W. Smyth, Commissioner of the General Land Office of the State of Texas, certify that the foregoing is a correct copy of the

original on file in this office. In testimony whereof, I have caused the seal of said office to be affixed the date above written.

[L. s.]

GEO. W. SMYTH,
Commissioner.

STATE OF TEXAS,

District of San Patricio and Nueces.

[See original, page 1512.]

Var. $8^{\circ} 58'$ E. Survey for Charles Stillman, assignee of David Snively, of 320 acres of land situated on the N. E. side of the Rio Grande, including a part of the town of Brownsville in the county of Cameron, being the quantity of land to which he is entitled by virtue of certificate No. 39, issued by the board of land commissioners for the county of Nueces, on the third day of January, 1848, beginning on the bank of the Rio Grande at the lower or S. E. corner of a survey in the name of J. W. B. McFarland, of whom Charles Stillman is the assignee; thence N. 45° E. with the survey aforesaid 11.15 varas to a resaca 222 varas wide; at 2648 varas set post for the N. W. corner, whence an ebony marked + bears S. 37° W. 13 varas, also an ebony marked + bears S. 72° E. 21 varas; thence S. 45° E. 70 varas to a lake 30 varas wide 460 varas to a road leading from Brownsville to Brazos de Santiago at 172 varas set post for N. E. corner, whence Mesquite marked + bears S. 54° E. 15 varas, an ebony marked + bears N. 43° W. 9 varas; thence S. 45° W. 800 varas to a resaca 200 varas wide 2085 varas to a bend of a lake thus ((, 2337 varas crossed said bend 2833 varas to the bank of Rio Grande, set post and mound for the S. E. corner; thence up with the meanders of the Rio Grande N. $16^{\circ} 30'$ W. 439 varas N. $49^{\circ} 30'$ W. 290 varas to the place of beginning.

GEORGE LYON,

Deputy Surveyor of District of San Patricio and Nueces.

SAM'L GOLSTON,

SANTIAGO CASES,

} *Chain Carriers.*

I, George Lyon, deputy surveyor of the District of San Patricio and Nueces, do solemnly swear under my official oath that the survey designated in the foregoing plot and field notes was made by me on the 8th day of November, 1848, and that the lines, boundaries, and corners of the same, together with the marks, natural and artificial, are truly described therein. Witness my hand this 23d day of November, 1848.

GEORGE LYON, *Deputy Surveyor.*

I, J. Snively, surveyor, do certify that I have examined the foregoing plot and field notes, and find them correct, and the survey made according to law, and that the said field notes are recorded in Book H, pages 35 and 36. Given under my hand at Corpus Christi the 10th January, 1849.

J. SNIVELY,

Surveyor of the District of San Patricio and Nueces.

GENERAL LAND OFFICE,
Austin, January 9, 1851.

I, George W. Smyth, Commissioner of the General Land Office of the State of Texas, certify that the foregoing is a correct copy of the original on file in this office.

In testimony whereof, I have caused the seal of said office to be affixed the date first above written.

[L. s.]

GEO. W. SMYTH,
Commissioner.

No. 13.

Deposition of George Lyons, except parts excluded, and all the documents accompanying the same; also the map.

The President of the United States to James N. Reynolds, of the county of Cameron, and State of Texas, greeting: Know ye that, in consequence of your prudence and fidelity, I have appointed, and do by these presents give unto you full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a cause now depending and at issue in chancery in the district court of the United States for the district of Texas, wherein Don Rafael Garcia Cavazos and others are complainants, and Charles Stillman and others are defendants.

And therefore, I command you that you do, at certain days and places to be appointed for that purpose, cause the witnesses named in the title to said interrogatories, or such of them as shall be delivered to you, to come before you, and then and there examine them apart upon the said interrogatories, either on their respective corporal oaths, first taken before you on the Holy Evangelists, or, in case of Quakers, upon their solemn affirmations and declaration, or in such other solemn manner as is or may be authorized by law; and that you do take such their examinations and reduce them into writing; and when you shall have so taken them, you are to send them to the clerk of the above named court without delay whatsoever; it shall be closed up and under your seal, distinctly and plainly set, together with the said interrogatories and this writ. And I further command you that, before you act in or be present at the swearing or examining any witnesses, you do take and subscribe the oath specified in the schedule hereunto annexed, before a commissioner of the United States or a judge of some court of record.

Witness the honorable John C. Watrous, judge of said court, and seal of court, this second day of November, in the year of our Lord one thousand eight hundred and fifty, and of the independence of the United States of America the seventy-fifth year.

[L. s.]

JAMES LOVE,
Clerk.

The defendants, Belden, Stillman, and Mussina, having offered to read the deposition of George Lyon, and the papers attached thereto

marked *A, B, C, D, E*, in evidence at the hearing, and to present the map referred to in his cross-examination also in evidence, the complainants objected thereto, and to the introduction of said papers, for the following reasons:

1st. Because there is better evidence, *i. e.*, copies of the original field notes on file in the General Land Office.

2d. Because the surveys are not shown to have been made by authority of law.

3d. Because the headright certificates should first be proved to show that the surveys were rightly made by virtue thereof.

4th. Because the testimony is irrelevant, and does not tend to prove the issues or allegations in the defendants' answers. But the court overruled these objections, except the last, which was reserved until the final judgment.

George Lyon, of the city of Brownsville, in the county of Cameron, in the State of Texas aforesaid, surveyor, aged thirty-four years, a witness produced, sworn, and examined on the part of the defendants, Charles Stillman, Samuel A. Belden, and Jacob Mussina, deposeth and saith as follows:

Answer to first direct interrogatory: I know all the parties to this suit, both complainants and defendants.

Answer to second interrogatory: Jacob Snively was the surveyor of the district of San Patricio and Nueces in the year of our Lord one thousand eight hundred and forty-eight, and consequently in the months of November and December of said year.

Answer to third interrogatory: I was one of the deputy surveyors of the land district of San Patricio and Nueces in the year of our Lord one thousand eight hundred and forty-eight, acting in and for what is now the county of Cameron. The said surveyor, Jacob Snively, left for California on or about July, one thousand eight hundred and forty-nine.

Answer to fourth interrogatory: The county of Cameron was embraced in the district of San Patricio and Nueces, and my relation to said surveyor's office was that of deputy surveyor, which deputation expired on or about the month of August, A. D. one thousand eight hundred and fifty.

Answer to fifth interrogatory: The surveys at and adjoining the town of Brownsville were made by me as deputy surveyor for the District of San Patricio and Nueces, in the months of November and December, A. D. one thousand eight hundred and forty-eight; said surveys were made for Charles Stillman ***** which are particularly described in the copies of the field notes of the same respectively by me made, and the copies marked respectively *A, B, C, D, E* are true and accurate copies of each survey respectively made by me.

Said surveys were made between the first of November and the eighth of December, A. D. one thousand eight hundred and forty-eight, the field notes of which, after having been duly made out and signed, were forwarded to the surveyor, at the surveyor's office at Corpus Christi, in May, one thousand eight hundred and forty-nine.

Answer to sixth interrogatory: I was one of the deputy surveyors of the Land District of San Patricio and Nueces, in A. D. one thousand eight hundred and forty-eight, and consequently in the months of October, November, and December of said year; and I did make five surveys for Charles Stillman as deputy surveyor. ***** Said surveys cover the ground now known as the town of Brownsville, extending some mile above and one and a half mile below***** all of which will more fully appear by reference to the annexed field notes.

The above mentioned surveys were made between the first day of November and the eighth day of December, A. D. one thousand eight hundred and forty-eight.

I do not know where the original field notes, headright certificates, and bounty warrants are, as I have not got them.

The papers herewith exhibited are true and correct copies of said surveys made by me at the time I surveyed said lands, and for a description of said lands I refer to them respectively, marked as aforesaid.

Answer to seventh interrogatory: My answer to this interrogatory will be found in my answers to interrogatories fifth and sixth.

Answer to eighth interrogatory: I am a surveyor by profession, and have been since A. D. one thousand eight hundred and forty-one, at which time I commenced surveying by virtue of a deputation emanating from the United States Surveying Department for the district south of Tennessee.

The complainants objected to the reading of the answer of George Lyon to the ninth direct interrogatory, on the ground that the interrogatory was too indefinite to admit of a certain or sufficient answer; but the objection was overruled and the answer was read.

JAMES LOVE, *Clerk.*

Answer to ninth interrogatory: The town site of Brownsville is situated one and a half miles from the centre of the public square of Matamoras, and the amount of land embraced in the corporate limits of Matamoras situated on the northeast side of the Rio Grande is about four thousand six hundred and fifty-four (4654) acres; my means of determining are from actual survey. I have made a survey from the centre of the public square to the east side of the Rio Grande, and my object in doing so was to make a survey of the corporate limits of Brownsville.

Answer to tenth interrogatory: Nothing new occurs to my mind that I would deem important to the parties at issue in this cause.

GEORGE LYON,
J. N. REYNOLDS,
Comm'r.

And thereafter, upon the same day aforesaid, at the aforesaid office of the aforesaid James N. Reynolds, the said George Lyon, answering to the cross-interrogatories by the complainants in this case, filed

under and by virtue of the aforesaid commission, answered as follows, to wit:

Answer to first cross-interrogatory: I made the surveys for Charles Stillman * * * * said surveys were made between the first day of November and the eighth day of December, A. D. one thousand eight hundred and forty-eight. I was requested to make said surveys by Samuel A. Belden, who paid me my fees for said surveys.

Answer to second cross-interrogatory: I am acquainted of land said to have been granted in seventeen hundred and eighty-one to Don Salvador de la Garza, known as the Potrero del Esperitu Santo; said grant fronts on the Rio Grande for some three and a half leagues above and below Brownsville, and said grant runs back to the arroyo Colorado by the calls of said grant, and its exterior boundaries would include the Town of Brownsville and the adjoining lands, should it be surveyed in accordance with the confirmation of said grant. But should it be surveyed in accordance with its calls, to wit: to run a line from the "Los Lonses" straight to the "Tanque," it would not include Brownsville.

Answer to third cross-interrogatory: I heard of said grant some time in A. D. 1847, or A. D. 1846, am not sure. I commenced the survey of said grant May the fifth, A. D. one thousand eight hundred and forty-eight, by request and with the consent of most of the heirs of said estate; but having only partially finished it, and having learned that the heirs were disputing, I quit the survey, and thus it remained until the first of A. D. 1849, at which time I finished, or at least three sides of it, at the request of Constantine Tarnava, who paid me for said survey.

Answer to fourth cross-interrogatory: I was aware of the existence of the Esperitu Santo grant prior to making the surveys, by virtue of certificate for Charles Stillman from having read the title, or a portion of a paper purporting to be the title of said grant. So much had been said, and by so many, that I do not now recollect who they were or what they said about said grant.

Answer to the fifth cross-interrogatory: Charles Stillman, Samuel A. Belden, and Samuel Mussina resided in Matamoras in the summer of the year one thousand eight hundred and forty-seven, at which time I went to said place to reside. I cannot say how much prior those gentlemen have continued to reside in Matamoras and Brownsville since, except Simon Mussina, who has been absent some months. Simon Mussina is represented to be the brother of Jacob Mussina; in fact, they have both told me that they were brothers.

Answer to sixth cross-interrogatory: Patrick C. Shannon has three claims of land on the northeast bank of the Rio Grande, one a labor claim, and two by virtue of certificates.

The claim upon which he has laid out a town is a labor claim, and is within a league of Matamoras. The town is called "Freeport."

Answer to seventh cross-interrogatory: In August, A. D. one thousand eight hundred and forty-eight, Charles Stillman applied to me to make a survey of the town of Brownsville. I done so, the lots of which were sold in the name of Stillman, Belden, and Mussina.

Said town is situated two thousand eight hundred and eighty (2880) varas N. 12° E. from the City of Matamoras.

I have surveyed most of the streets and lots in said Town of Brownsville. I have a long account with Messrs. Stillman, Belden, and Mussina, one item of which is the surveying the lots in the Town of Brownsville, upon which there is a small balance due me per my books.

Answer to eighth cross-interrogatory: From Matamoras, Santa Rita bears north 36° west six miles; Santa Rosalia bears north 85° east one league; Rancho de los Indios bears north 27° east eighteen (18) miles; San Juan del Retiro bears about north 25° east eighteen (18) miles; and the Tangué bears north 78° east nine (9) miles; as for Rancho Viejo, I have not now the data for determining.

Answer to ninth cross-interrogatory: I commenced my survey of the "Espíritu Santo" grant about nine (9) miles above Brownsville, in a straight line, and Dona Estefana Gozeascochea resides two and a quarter ($2\frac{1}{4}$) miles, about, below that point. I do not know how long she has been living there. I first knew her in eighteen hundred and forty-seven or eight.

Answer to tenth cross-interrogatory: In running my lines to determine the incorporate limits of Brownsville, I ran with the true meridian, as you will see by reference to the copy of map which will accompany these papers. My reasons for doing so were, that the late and adopted surveys on the southwest side of the Rio Grande are run to the due cardinal points, and thus I made my surveys to correspond with theirs, although it would seem from some resurveys made by me that the original surveys on this bank of the river have been run magnetic.

GEORGE LYON,
J. N. REYNOLDS,
Com.

Exhibit A.

STATE OF TEXAS,

District of San Patricio and Nueces.

Survey for Charles Stillman, assignee of David Snively, assignee of J. W. B. McFarland, of 8,038,970 $\frac{1}{3}$ square varas, situated on the N. E. side of the Rio Grande, including a part of the Town of Brownsville, in the county of Cameron, being a part of the quantity of land to which he is entitled by virtue of certificate No. 111, issued by the Board of Land Commissioners for the county of Victoria, on the day of 18. Beginning at a stake and mound on the bank of the Rio Grande, near the lower or S. E. corner of a survey in the name of J. Baxter, the old corner of said survey having washed in, for the S. W. corner of this survey; thence N. 45° E. with the survey aforesaid; at varas passed the N. E. corner of the survey of the said J. Baxter; continued N. 45° E. 2040 varas to a Resaca 480 varas wide, 3800 varas to a road leading from Brownsville to Point Isabel, 4470 varas to a Resaca 80 varas; at 5217 varas set stake for N. W. corner. Whence Ebony marked +

bears S. 60° E. 14. Ebony marked + bears S. 38° E. 20 varas. Thence S. 45° E. 102 varas to a Resaca 30 varas wide, at 1444 varas set post for the N. E. corner. Whence a Mesquite marked + bears S. $55^{\circ} 30'$ W. 36 varas. Musquite marked also *marked musquite marked* + bears S. 76° W. 44 varas. Thence S. 45° W. at 1769 varas passed the N. W. corner of a survey in the name of David Snively, 2600 varas to a Resaca 22(2) varas wide, 4437 varas to the bank of the Rio Grande, set stake and mound on the Levee of the town of Brownsville for the S. E. or lower corner; thence up with the meanders of the Rio Grande in front of Matamoras, Mexico. N. $49^{\circ} 30'$ W. 104 varas, S. $36^{\circ} 15'$ N. 1220 varas, S. $25^{\circ} 30'$ W. 460 varas to the N. E. corner of a grant made to Cabasas, and since transferred to P. C. Shannon, set stake, and mound thence with the fence of the said labor across bend. N. 20° W. 255 varas, N. 8° W. 147 varas, N. 25° W. 95 varas, N. 70° W. 110, S. 60° W. 52 varas, N. 84° W. 177 varas, to the bank of the Rio Grande, a large Musquite post marked + for corner; thence up with the meanders of the Rio Grande N. 42° E. 33 varas, N. 21° E. 660 varas, N. $2^{\circ} 30'$ W. 370 v., N. $34^{\circ} 15'$ W. 370 varas, N. $80^{\circ} 30'$ W. 130 varas, to the place of beginning.

This survey contains all arable land.

GEORGE LYON

Deputy Surveyor

of the District of San Patricio and Nueces.

SAMUEL GELSTON

and SANTIAGO CASSAS.

Chain Carriers.

Between RAFAEL GARCIA CAVAZOS *et als.*, Plaintiffs,

and

CHARLES STILLMAN *et als.*, Defendants.

In Chancery.

24th December, 1850. At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to George Lyon, a witness sworn and examined, and by him deposed unto, at the time of his examination on the complainants' behalf, before me.

J. REYNOLDS,

Com.

Exhibit B.

STATE OF TEXAS,

District of San Patricio and Nueces.

Survey for Charles Stillman, assignee of David Snively, assignee of Sabas Medrano, of 640 acres of land, situated on the N. E. side of the Rio Grande, about $\frac{1}{2}$ mile below the town of Brownsville, in the County of Cameron, being the quantity of land to which he is entitled by virtue of certificate No. 18 issued by the Board of Land Commis-

sioners for the County of Nueces, on the day of 18 , beginning on the bank of the Rio Grande at the lower or S. E. corner of a survey in the name of David Snively, of whom Charles Stillman is the assignee, thence N. 45° E. with the survey aforesaid, 476 varas, to a bend of a lake thus ((, at 780 left said bend, 1833 varas, to a resaca 200 varas wide, at 2833 varas past the N. E. corner of the survey aforesaid, at 3084 varas set stake for the N. W. corner, whence mesquit marked + bears S. 41° W. 10 varas, mesquit marked + bears S. 11° E. 7 varas, thence S. 45° E. at 1078 varas set stake for the N. W. corner, whence mesquit marked + bears N. 74° W. 6 vrs., also ebony marked + bears S. 35° W. 8 varas, thence S. 45° W. 10 varas to resaca 140 varas wide, 842 varas to bend of a resaca thus)), 3812 varas to the bank of the Rio Grande, set stake and mound for the S. E. corner, thence up with the meanders of the Rio Grande N. 51° W. 210 vrs., N. 14° W. 153 vrs., N. 16° 30' W. 41 vrs., to the place of beginning.

GEORGE LYON,

*Deputy Surveyor for the District of
San Patricio and Nueces.*

SAMUEL GELSTON, }
SANTIAGO CASSAS, } *Cha. Car's.*

I, George Lyon, Deputy Surveyor for the District of San Patricio and Nueces, do solemnly swear, under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 22d day of November, 1848, and that the lines, boundaries, and corners, together with all marks, natural and artificial, are truly described therein.

Witness my hand this the 23d day of November, 1848.

GEORGE LYON,

Deputy Surveyor.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et als.*, Plaintiffs,
and

CHARLES STILLMAN *et als.*, Defendants.

24th December, 1850. At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to George Lyon, a witness sworn and examined, and by him deposed unto, at the time of his examination, on the complainants' behalf, before me.

J. REYNOLDS,
Com.

Exhibit C.

STATE OF TEXAS,

District of San Patricio and Nueces.

Survey for Charles Stillman, assignee of Jacob Snively, of 960 acres of land, situated on the N. E. side of the Rio Grande, about $1\frac{1}{2}$ miles below the town of Brownsville, in the County of Cameron, being a

H. Rep. Com. 540—77

part of the quantity of land to which he is entitled by virtue of land warrant No. $\frac{533}{632}$, issued by the Commissioner of the General Land Office on the day of 184 , beginning on the bank of the Rio Grande, at the lower or S. E. corner of a survey in the name of Estevan Villareal, of whom Charles Stillman is the assignee, thence N. 45° E. with the survey aforesaid 3100 varas, to a resaca 50 varas wide, at 3871 varas passed the N. E. corner of the R. survey aforesaid, at 4659 varas set post for the N. W. corner, whence a mesquit marked + bears N. 44° E. 5 varas, also a mesquit marked + bears S. 86° E. 7 varas, thence S. 45° E. at 1185 varas set post for the N. E. corner, whence a mesquit marked + S. 69° E. 10 varas, also a mesquit marked + bears N. 13° W. 3 varas, thence S. 45° 1470 varas, to a resaca 50 varas wide, bearing N. W. 4709 varas to the bank of the Rio Grande, set post for the S. E. or lower corner, whence a tipewaga marked + bears N. 48° E. 100 varas, also an ebony marked + bears N. 89° E. 110 varas, thence up with the meanders of the Rio Grande N. 12° W. 300 varas, N. 22° W. 240 vrs., N. 60° 45' W. 745 varas to the place of beginning.

GEORGE LYON,

*Deputy Surveyor for the District of
San Patricio and Nueces.*

SAMUEL GELSTON, }
SANTIAGO CASSAS, } *Chain Carriers.*

I, George Lyon, deputy surveyor for the district of San Patricio and Nueces, do solemnly swear, under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 1st day of December, 1848, and that the lines, boundaries, and corners, together with all marks, natural and artificial, are truly described therein.

Witness my hand this the 2d day of December, 1848.

GEORGE LYON,

Deputy Surveyor.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et als.*, Plaintiffs,
and

CHARLES STILLMAN *et als.*, Defendants.

24th December, 1850. At the execution of a commission for the examination of witnesses in this cause, this written paper was produced and shown to George Lyon, a witness sworn and examined, and by him deposed to at the time of his examination on the complainants' behalf before me.

S. REYNOLDS, *Com.*

Exhibit D.

STATE OF TEXAS,

District of San Patricio and Nueces.

Survey for Charles Stillman, assignee of David Snively, of 320 acres of land situated on the N. E. side of the Rio Grande, including a part

of the town of Brownsville, in the county of Cameron, being the quantity of land to which he is entitled by virtue of certificate No. 39, issued by the board of land commissioners for the county of Refugio, on the day of 18 , beginning on the bank of the Rio Grande at the lower or S. E. corner of a survey of J. W. B. McFarland, of whom Charles Stillman is the assignee; thence N. 45° E. with the survey aforesaid, 1615 varas to a resaca 222 varas wide, at 2648 varas set post for the N. W. corner, whence an ebony marked + bears S. 57° W. 13 varas, also an ebony marked + bears S. 72° E. 21 varas; thence S. 45° E. 70 varas to a lake 30 varas wide, 460 varas to a road leading from Brownsville to Brazos Santa Iago, at 627 varas set post for N. E. corner, whence mesquit marked + bears S. 54° E. 15 vrs., an ebony marked + bears N. 43° W. 9 vrs.; thence S. 45° W. 800 varas to a resaca 200 varas wide, 2085 varas to a bend of a lake thus ((, 2357 varas, crossed the said bend 2833 varas to the bank of the Rio Grande, set post and mound for the southeast corner; thence up with the meanders of the Rio Grande N. $16^{\circ} 30'$ W. 439 vrs., N. $49^{\circ} 30'$ W. 290 vrs. to the place of beginning.

GEORGE LYON,

*Deputy Surveyor of the District of
San Patricio and Nueces.*

SAMUEL GELSTON, }
SANTIAGO CASSAS, } *Chain Carriers.*

I, George Lyon, deputy surveyor for the district of San Patricio and Nueces, do solemnly swear, under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 8th day of November, 1848, and that the lines, boundaries, and corners of the same, together with the marks, natural and artificial, are truly described therein.

Witness my hand this 23d day of November, 1848.

GEORGE LYON,
Deputy Surveyor.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et als.*, Plaintiffs,
and

CHARLES STILLMAN *et als.*, Defendants.

At the execution of a commission for the examination of witnesses in this cause, this paper writing was produced and shown to George Lyon, a witness sworn and examined, and by him deposed unto at the time of his examination on the complainants' behalf before me.

J. N. REYNOLDS, *Com.*

Exhibit E.

STATE OF TEXAS,

District of San Patricio and Nueces.

Survey for Charles Stillman, assignee of David Snively, assignee of Estavan Villareal, of 280 acres of land situated on the N. E. side

of the Rio Grande about one mile below Brownsville, in the county of Cameron, being the quantity of land to which he is entitled by virtue of certificate No. 36, issued by the board of land commissioners for the county of Nueces on the day of 18 , beginning on the bank of the Rio Grande at the lower or S. E. corner of a survey in the name of Sabas Medrano, of whom Charles Stillman is the assignee; thence N. 45° E. with the aforesaid survey, 2390 varas to a bend of a resaca thus)), 580 varas across said bend, at 3490 varas a resaca bearing N. W. 140 varas wide, at 3690 varas passed the N. W. corner of the survey aforesaid, 6170 varas to a resaca 50 varas wide, running N. W. At 6337 varas set a post for the N. W. corner, whence an ebony marked + bears S. 18° E. 11 varas, also an ebony marked + bears S. 46° W. 13 varas, thence S. 45° E. 170 varas to a resaca 30 varas wide, running N. E. 660 varas to a resaca 50 varas wide; at 1340 varas set post for the N. E. corner,

Exhibit 9.

(For map see original, page 1530.)

whence a mesquit marked + bears S. 57° E. 8 vrs., also a mesquit marked + bears S. 87° W. 13 varas; thence S. 45° W. 700 varas to a resaca 50 varas wide, 3871 varas to the bank of the Rio Grande, set post and mound for the S. E. or lower corner; thence up with the meanders of the Rio Grande N. $60^{\circ} 45'$ W. 55 vrs., S. $30^{\circ} 30'$ W. 470 vrs., S. 57° W. 110 vrs., S. $25^{\circ} 30'$ W. 860 vrs., S. $49^{\circ} 15'$ W. 390 vrs., S. $74^{\circ} 45'$ W. 180 vrs., S. 61° W. 50 vrs., West 230 vrs., N. 50° W. 190 vrs., N. $25^{\circ} 30'$ E. 200 vrs., N. $46^{\circ} 30'$ E. 850 varas, N. $10^{\circ} 31'$ E. 500 vrs., N. $51^{\circ} 15'$ W. 480 vrs., N. $67^{\circ} 30'$ W. 310 vrs., S. 41° W. 1010 vrs., S. $57^{\circ} 45'$ W. 570 vrs., N. $53'$ W. 50 vrs. to the place of beginning.

GEORGE LYON,
*Deputy Surveyor of the district of
San Patricio and Nueces.*

SAMUEL GOLSTON, }
SANTIAGO CASSAS, } *Chain Carriers.*

I, George Lyon, deputy surveyor for the district of San Patricio and Nueces, do solemnly swear under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 27th day of November, 1848, and that the lines, boundaries, and corners, together with all marks, natural and artificial, are truly described therein. Witness my hand this 3d day of November, 1848.

GEORGE LYON,
Deputy Surveyor.

In Chancery.

Between RAFAEL GARCIA CAVAZOS *et als.*, Plaintiffs,
and
CHARLES STILLMAN *et als.*, Defendants.

24th December, 1850. At the execution of a commission for the examination of witnesses in this cause, this paper writing was pro-

duced and shown to George Lyon, a witness sworn and examined, and by him deposed unto at the time of his examination in the complainants' behalf, before me.

J. N. REYNOLDS, *Com.*

No. 14.

Depositions of Israel B. Bigelow and Francis J. Parker.

[Commission.]

The President of the United States to James N. Reynolds greeting :

Know ye that, in consequence of your prudence and fidelity, I have appointed and do by these presents give unto you full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be delivered unto you in a cause now depending and at issue in chancery in the district court of the United States for the district of Texas, wherein Don Rafael Garcia Cavazos and others are complainants, and Charles Stillman and others are defendants ; and therefore I command you, that you do at certain days and places, to be appointed for that purpose, cause the witnesses named in the title to said interrogatories, or such of them as shall be delivered to you, to come before you, and then and there examine them apart upon said interrogatories, either on their respective corporal oaths, first taken before you on the Holy Evangelists, or, in case of Quakers, upon their solemn affirmation and declaration, or in such other solemn manner as is or may be authorized by law ; and that you do take such their examinations and reduce them into writing, and when you shall have so taken them you are to send the same to the clerk of the above named court, without any delay whatsoever ; it shall be closed up and under your seal distinctly and plainly set, together with the said interrogatories and this writ. And I further command you that before you act in or be present at the swearing or examining any witness, you do take and subscribe the oath specified in the schedule hereunto annexed, before a commissioner of the United States or a judge of some court of record.

Witness the honorable John C. Watrous, judge of the said court, [L. s.] and seal of court, this second day of November, in the year of our Lord one thousand eight hundred and fifty, and of the Independence of the United States of America the 75th year.

JAMES LOVE, *Clerk.*

[Objections.]

The defendants, Belden, Stillman, and Mussina, having offered to read in evidence at the hearing of the depositions of Francis J. Parker and J. B. Bigelow, the complainants objected to the admissibility of the whole thereof, and each answer to the direct interrogatories separately, on the ground that the testimony was irrelevant and did not tend to prove the issues or the allegations in the answers of the defendants ; but this objection was reserved by the court until the final argument of the cause, and the depositions were admitted in evidence.

JAMES LOVE, *Clerk.*

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

DON RAFAEL GARCIA CAVAZOS *et als.* }

vs.

CHARLES STILLMAN *et als.* }

[Caption.]

Depositions of witnesses produced, sworn, and examined on Tuesday, the twenty-fourth day of December, in the seventy-fifth year of the independence of the United States of America, and in the year of our Lord one thousand eight hundred and fifty, at the office of James N. Reynolds, in the city of Brownsville, in the county of Cameron, and State of Texas, by virtue of two commissions issuing out of the district court of the United States for the district of Texas, sitting in chancery, to me, James N. Reynolds, for the examination of witnesses in a certain cause there depending between Don Rafael Garcia Cavazos, Doña Maria Josefa Cabazos, his wife, and Doña Estefana Gozeascochea de Cortina, complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Richard Fitzpatrick, Patrick C. Shannon, W. W. Chapman, José Manuel Prieto, Doña Feliciana de Tigerina, Maria Angela Safen de Tarnava, and Ramon Safen are defendants, I, the acting commissioner under the said commissions, and also T. Francis Brewer, a clerk by me employed in taking and writing down the said depositions, having first duly taken the oath annexed to the said commission, according to the tenor and effect thereof, and as thereby directed, and, after the said T. Francis Brewer had been by me duly sworn upon the holy Evangelists of Almighty God to faithfully, impartially, and accurately take down the depositions of such witnesses as should be by me examined touching the knowledge of facts relating to the aforesaid cause or suit, proceeded to take the depositions as follows :

Israel B. Bigelow, of the city of Brownsville, in the county of Cameron, in the State of Texas aforesaid, esquire, aged thirty-nine years, a witness produced, sworn, and examined on the part and behalf of the defendants, Charles Stillman, Samuel A. Belden, and Jacob Mussina, deposeth and sayeth as follows :

[Deposition.]

Answer to the first interrogatory : I know all the parties to this suit, except Doña Maria Josefa Cavazos, wife of Rafael Garcia Cabazos.

Answer to the second interrogatory : I am acquainted with the location, situation, and condition of the town or city of Brownsville, in the county of Cameron. I have known and been acquainted with the location, condition, and situation of the land upon which the town of Brownsville is situated since about the first day of June, A. D. one thousand eight hundred and forty-six. Charles Stillman and Samuel

A. Belden commenced selling lots in what is now the city of Brownsville about the first of July, A. D. one thousand eight hundred and forty-eight. Some of the first buildings erected in the town were erected by A. Phelps, G. Falco, a Mr. Chamberlain, and, I think, in the fall of A. D. 1848, Charles Stillman erected a brick store and other buildings. I was acquainted with the land on which the said town of Brownsville is situated, and I know the lands adjacent thereto, before the town of Brownsville was laid out or commenced. I examined that portion that is occupied by the United States troops, and that which is now the city of Brownsville, with the view of purchasing five labors lying and fronting on the Rio Grande, previous to the first of May, A. D. one thousand eight hundred and forty-eight, and before the commencement of the town of Brownsville; which said five labors, as they were then pointed out to me, comprised all the land which is now occupied by the United States, (excepting "Fort Brown" and a small tract contiguous thereto,) and also a large portion of what is now improved in the city of Brownsville. The five labors were offered me for seventeen hundred and fifty dollars. I am acquainted with what are called the lines of the "Exidos" of Matamoras, so far as relates to that portion of the land lying on the east bank of the Rio Grande, in the county of Cameron, fronting the city of Matamoras; and am also acquainted with the land enclosed in said lines, and believe that all of the land lying upon the east bank of the Rio Grande, and known as the land formerly embraced in the "Exidos" of Matamoras, was worth not exceeding the sum of ten thousand dollars before the town of Brownsville was commenced and improved, to wit, on the first day of January, A. D. one thousand eight hundred and forty-eight. From my knowledge of the value of property in Brownsville, I think there are one hundred and fourteen lots in the city of Brownsville that are worth, independent of the improvements thereon, the sum of one thousand dollars each, making the sum of one hundred and fourteen thousand dollars. I believe there are about six hundred and forty other lots which are worth one hundred and twenty-five dollars each, amounting to the sum of eighty thousand dollars more; and I believe the remaining part of the land lying within the lines of what was formerly the "Exidos" of Matamoras, besides that occupied by the United States and adjoining the city of Brownsville, is worth twenty thousand dollars: making, in all, independent of that portion occupied by the United States, the sum of two hundred and fourteen thousand dollars. I cannot state with any certainty the value of the buildings and improvements upon the land known as the "Exidos" of Matamoras. The improvements and buildings are numerous and of great value.

Answer to the third interrogatory: I do not know of any other matter or thing which may be a benefit or advantage to the party or parties at issue in this cause, or either of them, or that may be material to the subject in controversy.

ISRAEL B. BIGELOW.

J. N. REYNOLDS, *Com.*

And thereafter, upon the same day aforesaid, at the aforesaid office of the aforesaid James N. Reynolds, the said Israel B. Bigelow, answering to the cross-interrogatories by the complainants in this cause filed, under and by virtue of the aforesaid commission, answered as follows, to wit:

Answer to first cross-interrogatory: The first building put up by any of the defendants, to my knowledge, was put up by Charles Stillman, in the month of August, one thousand eight hundred and forty-eight, and was a frame building, and during the same month and year, I believe, Charles Stillman commenced the erection of a brick store, contiguous thereto, which was completed during the month of October, A. D. one thousand eight hundred and forty-eight. About the last of October, A. D. one thousand eight hundred and forty-eight, Samuel A. Belden commenced the erection of a large two-story brick double store in said town, and according to the best of my recollection, Simon Mussina, agent for Jacob Mussina, erected a frame building about the month of October, A. D. one thousand eight hundred and forty-eight, for a printing office. I am not certain that the building of Samuel A. Belden was *entirely* finished before the twelfth day of January, A. D. one thousand eight hundred and forty-nine, but was so far completed as to be used for the storage of goods, wares, and merchandise previous to that time. I think the cost of Charles Stillman's frame building was about seven hundred dollars; and of Stillman's brick building, so far as erected at the aforementioned time, about eight thousand dollars, to which the said Stillman has since built an addition, costing about two thousand dollars more. I think the value or cost of Samuel A. Belden's store was about twelve thousand dollars, and the cost of the frame building erected by Simon Mussina, agent for Jacob Mussina, about five hundred dollars.

Answer to second cross-interrogatory: In making the estimate of the value of the land embraced in that portion of what is called the "Exidos" of Matamoras, and upon which the town of Brownsville is built, I have noticed the number of blocks and lots as laid off, and estimated their value, according to my judgment, based upon an intimate knowledge of the property, and being guided as nearly as practicable by the prices at which the average portions of the said property, are *bought* and *sold* at. I believe there were originally four leagues of land embraced within the "Exidos" of Matamoras, about one-half of which lies in Mexico, and upon which the city of Matamoras is built, and the remaining half in Cameron county, Texas, and upon which the city of Brownsville is built. The boundaries of the portion lying in Cameron county have been marked out, and I am familiar with the boundaries and lines, but cannot state them in the absence of the field notes. I cannot state the exact distance of the exterior boundaries; I think the north corner of the tract is about three miles from the city of Matamoras, and that the lines range from one and a half to three and a half miles from said city.

Answer to the third cross-interrogatory: Brownsville is about one mile from Matamoras, and about thirty from Point Isabel, and about thirty from the mouth of the Rio Grande. There is a Mexican custom-house in Matamoras. I do not know what its revenue or income

was previous to the war with the United States, or at the present time.

Answer to the fourth cross-interrogatory: I am not a merchant, and cannot answer the different questions embraced in this cross-interrogatory.

Answer to the fifth cross-interrogatory: There is a United States military post at or near Fort Brown, immediately adjoining Brownsville. Fort Brown was established previous to the eighth of May, A. D. one thousand eight hundred and forty-six. The improvements immediately adjoining the town of Brownsville were commenced about the last of June, or first of July, A. D. one thousand eight hundred and forty-eight. I cannot state the number of troops stationed there. Several large frame buildings have been erected since the time last referred to by the officers of the United States government, and a brick powder-house. I do not know their value, but think they have cost the government fifty or sixty thousand dollars. I cannot say what would be a fair rent for the property occupied by the United States government. It is the most desirable portion of the "Exidos" tract, upon the east side of the Rio Grande, in Cameron county.

Answer to sixth cross-interrogatory: I have heard of a grant called the Esperitu Santo grant, but know nothing definitely about it; cannot state when I first heard of it.

Answer to seventh cross-interrogatory: I do not know how long Charles Stillman has resided in Matamoras. I have known him about four years. I knew him as a merchant. This is the second year he has resided in Brownsville, Texas. I think Samuel A. Belden did business as a merchant in Matamoras about two years. I am informed that Simon Mussina is a brother of Jacob Mussina. I know the former gentleman, but not the latter, personally. I know of Simon Mussina residing in Matamoras, but cannot state the length of time. I know that he was acquainted with Constantine Tarnava and his wife, but cannot state anything in relation to his intimacy with them. I do not know the numbers of Mr and Mrs. Tarnava's family*****.

Answer to eighth cross-interrogatory; I know Charles Stillman speaks the Spanish language and understands it when spoken, but do not know that he reads it. Simon Mussina and Samuel A. Belden speak and understand it very imperfectly, so far as my information extends. Simon Mussina has edited a paper in Brownsville called the "American Flag." I think he occasionally wrote for said paper while it was published in Matamoras; cannot say whether he acted as editor or not in that place.

Answer to ninth cross-interrogatory: I do not know.

Answer to the tenth cross-interrogatory: I have not stated the value of the buildings and improvements, and cannot answer the question in the tenth cross-interrogatory.

Answer to the eleventh cross-interrogatory: The prices that Stillman, Belden, and Mussina asked for lots were from three hundred down to one hundred or one hundred and fifty dollars each. I cannot say how many lots the whole tract would make nor what would be the value of said land.

Answer to the twelfth cross-interrogatory : I do not know, as I have never been their agent.

ISRAEL B. BIGELOW.

J. N. REYNOLDS, *Com.*

[Caption.]

Francis J. Parker, of the city of Brownsville, county of Cameron, in the State of Texas aforesaid, gentleman, aged thirty years, a witness produced, sworn, and examined on the part and behalf of the defendants, Charles Stillman, Samuel A. Belden, and Simon Mussina, deposeth and saith as follows :

Answer to the first interrogatory : I know the defendants, Stillman, Belden and Mussina. I do not know the plaintiffs or any of them.

Answer to the second interrogatory : I am acquainted with the location and condition of the town of Brownsville, county of Cameron, Texas. I have been acquainted with its growth since about the time of its commencement until the present time. I think the first buildings were erected in about the month of September or October, A. D. one thousand eight hundred and forty-eight. Buildings were commenced about this time by Charles Stillman and Samuel A. Belden. They were large and costly buildings of brick. A great number of buildings were commenced by other persons about this time. I had no knowledge of the land or the adjacent lands before the town was commenced, and consequently cannot state its value. Its present value I should think to be fully equal to the price established for the lots. That portion of the town at present laid out for lots numbers about seven hundred and forty-two lots ; the average price is two hundred and seventy-five dollars per lot. This would give a sum total for the said portion of the town of two hundred and four thousand and fifty dollars. I consider the balance or unsurveyed portion to be very valuable, but much less in value than that which is occupied. I cannot fix its precise value. The brick buildings now erected and in process of erection I consider, from my knowledge of the cost of buildings in this place, to be about one hundred and thirty-one thousand dollars. The value of the frame buildings will probably reach two-thirds of the same sum. I do not mean to include in the above estimate the cost of the government buildings. I know nothing of the cost of said buildings. I believe the first, or about the first, buildings were commenced by the government. Then followed those of Messrs. Stillman, Belden, and others. I know nothing of the value of the land in the beginning of the year eighteen hundred and forty-eight, but I should think that it was then of very little value. I know of no other facts that I think will be of advantage to any of the parties in this suit.

F. J. PARKER

J. N. REYNOLDS, *Com.*

And thereafter, upon the same day aforesaid, at the aforesaid office of the aforesaid James N. Reynolds, the said Francis J. Parker,

answering to the cross-interrogatories by the complainants in this case filed, under and by virtue of the aforesaid commission, answered as follows, to wit:

Answer to the first cross-interrogatory: I have stated that the houses of the defendants were commenced about the month of August, A. D. 1848. Mr. Stillman had one large brick house built about that time at a cost, I should think, of about ten thousand (\$10,000) dollars. Mr. Belden, about the same time or a little later, built another house at a cost of about twelve thousand dollars, (\$12,000.) I think Mr. Stillman was in the occupation of his house at or before the twelfth of January, A. D. one thousand eight hundred and forty-nine.

Answer to second cross-interrogatory: I estimate the value of the land from what it has brought and now will bring in the market. I myself have paid in cash eleven hundred and fifty dollars (\$1,150) in cash for the one-half of one lot, and for another eight hundred dollars, (\$800.) I have known, very recently, larger sums offered and refused for lots. I do not know how much land is included in the "Exidos" of the city of Matamoras or its boundaries. I believe the tract of land so named includes the city of Matamoras.

Answer to the third cross-interrogatory: I suppose the city of Brownsville is about one mile from the city of Matamoras, about thirty miles from Point Isabel, and perhaps twenty-five miles from the mouth of the Rio Grande river. There is a custom-house in Matamoras. I do not know its revenue now or before the war.

Answer to the fourth cross-interrogatory: I am not a merchant, and know nothing of the subject of this interrogatory.

Answer to the fifth cross-interrogatory: There is a military post at Fort Brown, adjoining the town of Brownsville. I have already stated about the time it was first established. I believe about two companies are usually kept there. There are many fine buildings included in the limits of the post. I cannot state their value. I presume they cost the government about fifty thousand dollars (\$50,000.) I should think the land worth as much more.

Answer to sixth cross-interrogatory: No.

Answer to seventh cross-interrogatory: I think Mr. Stillman and Mr. Belden came to reside in Brownsville about the time of the building of their houses, as before stated. I know nothing of any other part of the interrogatory.

Answer to eighth cross-interrogatory: I think Mr. Stillman reads and speaks the Spanish language. Mr. Belden does not. Perhaps Mr. Mussina does imperfectly. He (Mussina) was an editor both of a paper in Brownsville and Matamoras called the "American Flag." The paper was printed in Brownsville about the time the town was commenced.

Answer to ninth cross-interrogatory: I do not know.

Answer to tenth cross-interrogatory: I cannot state the particular date or dates when the different buildings composing so large a city as Brownsville were erected. Previous to the twelfth January, A. D. one thousand eight hundred and forty-nine, there were a great many frame buildings up and going up, but no brick houses except the houses

of Messrs. Stillman and Belden and a small one belonging to Robert B. Kingsbury. Perhaps at that date Mr. Belden's house was not entirely finished. I cannot state how many proprietors there were or their names, but I should think there were several hundred. I know of no other building except the brick one mentioned belonging to either Mr. Stillman or Belden.

Answer to eleventh cross-interrogatory: I have stated the average price of lots. I cannot state the price or value of the other lands, except that occupied by the government, which I consider the most valuable in point of situation in the "Exidos." I cannot state what it would bring at a stated price per lot, if laid out into lots, because I do not know how many lots it would make, or, if laid out in lots, if they would have more than a nominal value. Lots in Brownsville are more or less valuable from their respective location and their adaptation for commercial business. The trade of Brownsville is limited, and it would be simply a conjecture as to the value of lands lying without the limits of the town.

Answer to twelfth cross-interrogatory: I do not know.

F. J. PARKER.

J. N. REYNOLDS,

Com.

15.

Statement in original Bill of Complainants.

Page 5—lines 4 to 9 from the bottom, in brackets.

That they have further procured a large number of headright certificates, bounty warrants, land scrip, and other evidences of title to land issued under the authority of the late republic and present State of Texas, and have caused the same to be located and surveyed in the said portions of the said tract of land since the annexation of Texas to the said United States.

16.

Answer of Patrick C. Shannon.

To first interrogatory, except part in brackets, excluded. To second interrogatory. To third interrogatory, except part in brackets, ruled out.

[To int. first.]

And this defendant, now answering according to the best of his knowledge, remembrance, information, and belief, the several and respective interrogatories in complainants' bill set forth, says, to interrogatory first: That it is not true that he has obtained from the Ayuntamiento of Matamoras any grant or claim to any portion of the tract of land described in the bill, nor does he believe any of the other defendants have obtained any such grants or claim; if any one of them have, this defendant is ignorant of the same. This defendant admits that he has purchased a tract of land containing about fifty-two or

fifty-three acres, situated on the eastern bank of the Rio Grande, *alias* Rio Bravo del Norte, opposite to Fort Parades and the City of Matamoras, on which the town of Freeport now stands. Said labor or tract of land was conceded and granted by the Ayuntamiento of the City of Matamoras to Nicolas Cabazos, sometimes called Nicolas José Cabazos, in fee simple, in the usual form of such titles (*****.) This defendant purchased said tract of land on the thirteenth day of the month of April, A. D. 1848, for the sum of six hundred dollars, cash in hand paid, as will be made appear by reference to the deed of said Cavazos, on record in the office of the Clerk of the County Court of Cameron County, State of Texas, in which county said land is situated, as will be made appear by reference to said deed and certificate of recording, hereafter with leave of the Court to be filed and marked exhibit *B*. This defendant has, ever since the date of the aforesaid deed, claimed title to the aforesaid tract of land, and still does claim title to and possess the same, with the exception of portions thereof, which he has sold to other persons. This defendant does not possess such information and knowledge as to the claims under which his co-defendants allege title to the land they claim to own as will enable him to speak with any certainty, except that he knows his co-defendant, Richard Fitzpatrick, did set up title to a portion of a lot of ground in the town of Freeport, by virtue of a conveyance or deed from this defendant to said Fitzpatrick. The lot is of small value, and this defendant is informed and believes said Fitzpatrick has sold the same. This defendant has no knowledge or information that his co-defendant, Fitzpatrick, has ever set up any right or claim to any portion of the land described in the complainant's bill, other than is herein set forth and stated.

To interrogatory 2d. And this defendant answering further saith, in answer to the second interrogatory of complainants: That it is true that this defendant has purchased and procured in his own right, two headright certificates, issued under the authority of the republic and State of Texas, which he has caused to be located on portions of the land described in the complainants' bill. One of these certificates was issued to Tiodoria Samora, by the board of land commissioners for Nueces county, on the nineteenth day of January, A. D. 1848, No. 34, for three hundred and twenty acres of land, and was by said Samora sold and transferred by deed, dated the twentieth day of January, A. D. 1848, to Frederick Belden, of the county of Nueces, who, by his attorney in fact, Rice Garland, sold and transferred said certificate, with all the rights and privileges thereunto appertaining to this defendant, as will appear by deed, duly recorded in the office of the county clerk of Cameron county. The aforesaid certificate of headright, together with the aforesaid deed from Samora to Frederick Belden, are now on file in the office of the surveyor for the district of San Patricio, at Corpus Christi, together with the application of this defendant to said surveyor to locate said certificate, which application is dated on or about the 25th day of the month of April, A. D. 1848, and is of record in said office. A survey was made in compliance with said location, on the day of , A. D. 1848, but the field notes thereof have not as yet, according to this defendant's knowledge and

belief, been returned to the office of the district surveyor. The location claims to have this certificate so surveyed as to cover all the land spoken of in this defendant's answer to the first interrogatory, and so much adjoining as will make the quantity of three hundred and twenty acres. This defendant cannot without the field notes of the survey, specify the courses and distances accurately, but the portion of land it covers is on the eastern bank of the Rio Grande, in the county of Cameron, opposite the city of Matamoras, and the survey includes the whole of the town of Freeport, and a portion of the town of Brownsville, and the land between the two places, all of which will more fully and at large appear by reference to the aforesaid certificate to Samora, the conveyance made by him to Frederick Belden, the power of attorney from said Belden to Rice Garland, the location made of the aforesaid claim in the surveyor's office at Corpus Christi, and the field notes of the survey when returned, all of which will, with leave of the court, hereafter be filed and marked exhibits. The other certificate of headright purchased by this defendant, was granted to Cunningham by the board of land commissioners in and for the county of Galveston, is dated the day of the month of , in the year for the quantity of three hundred and twenty acres, and was sold and transferred to this defendant by said Cunningham, by his agent and attorney in fact, Rice Garland, by deed dated on the day of the month of , A. D. , which is of record in the office of the clerk of the county court of Cameron, Texas. This defendant made application to the surveyor of the district of San Patricio, on the day of the month of , A. D. , to locate this certificate on the eastern bank of the Rio Grande, in the county of Nueces, now county of Cameron, State of Texas, about miles below Fort Brown, to have such front on the river as allowed by law, and to run back for the quantity of three hundred and twenty acres. The land was surveyed by George Lyon, a deputy surveyor for the district of San Patricio, on the day of the month of , A. D. , and the field notes of the survey returned to and approved by Jacob Snively, surveyor of the district of San Patricio, in the State of Texas, all of which will more fully and at large appear by reference to the aforesaid certificate to said Cunningham, his power of attorney to the aforesaid Rice Garland, and the deed executed to this defendant, with the certificates of recording on said documents, the location and field notes of survey mentioned herein, all of which will, with leave of the court, hereafter be filed and marked exhibits. This defendant further saith, that on the eighth day of the month of April, in the year 1847, he and one Salisbury Haly, now believed to reside in California, purchased by a deed of record in the office of the county clerk of Cameron county, as will appear from William Ayres, the certificate No. 224, granted by the board of land commissioners of Brazoria county, Texas, a headright in the name of Felix C. Catonnet, dated on the first day of February, A. D. 1838, for one-third of a league of land, equal to fourteen hundred and seventy-six acres. This certificate belongs to this defendant and the aforesaid Salisbury Haly jointly, each owning an individual half. On the day of the month of , A. D. , said Haly and this defendant made application to the surveyor of the district of San Patri-

cio, to locate the quantity of land named, in two tracts, one to front on the Rio Grande on the eastern bank, to contain the quantity of seven hundred and thirty-eight acres, with such front as the law allowed, and to run back for quantity, to adjoin upon the upper side a location and survey previously made for one J—— Baxter, and to be situated about two and a half miles above Fort Brown. Said location and survey was made on the day of , in the year , by George Lyon, a legally authorized deputy surveyor for the district of San Patricio, and the field notes of the survey returned to the office in Corpus Christi, the remainder of the land specified in the aforesaid certificate, No. 224, the aforesaid Salisbury Haly and this defendant had located and surveyed in the manner directed by law, by the aforesaid George Lyon, deputy surveyor, acting under the orders of Jacob Snively, surveyor of the district of San Patricio, with the front allowed by law, and such depth as would make the quantity specified, on the Rio Grande or Rio Bravo del Norte, about fifteen miles below Fort Brown, adjoining to a survey made for —— Newcombe, all of which will more fully and at large appear by reference to the aforesaid certificate No. 224, and the conveyance and deeds by which this defendant and said Haly acquired all the rights of Felix C. Catonnet, with the certificates of recording, and the aforesaid location and survey, with certificates of recording, all of which, with the leave of the court, will hereafter be filed and made exhibits . This defendant saith that by virtue of the aforesaid described titles, and that set forth in his answer to the first interrogatory, he does set up title and claim to the parcels and tracts of land herein set forth and described, and the same are situated within the limits prescribed in the bill of complaint. This defendant has no knowledge of his co-defendant Richard Fitzpatrick ever having purchased any headright certificates, county warrants, or treasury scrip, under and by virtue of which he sets up any title or color of title to any portion of the land described in the bill. This defendant has no information of his own, which can enable him to state under what titles and claims his co-defendants, Stillman, Belden, and Mussina, set up claim to portions of the land described in the bill of complaint, and cannot answer this interrogatory further.

To interrogatory 3. And this defendant further answering to the third interrogatory of complainants, for answer, saith: It is true that he claims right and title to take possession of and hold * * * * the tracts and parcels of land described in his answers to the first and second interrogatories of complainants, and in virtue of the titles set forth and stated in said answers. That he does claim the right to sell, lease, or otherwise dispose of the said lands, to give titles or bonds for titles therefor, also to receive sums of money for the sale or lease of the same.

[Objection and rulings.]

The complainants, at the hearing, read the following passages from the answer of Patrick C. Shannon, stating that they were read as admissions in pleading, and not in the technical sense as evidence in the cause. The passages thus read were, the answer to the first inter-

rogatory down to the words "who owned" on the third line from the bottom of the third page, the answer to the second interrogatory, and the answer to the fifth interrogatory. The defendants then offered to read in evidence on their part the passages thus read by the complainants, but the complainants objected thereto for the following reasons: 1st Because the answer of a defendant cannot be read as evidence for him except in a question of costs. 2d. Because the testimony offered is irrelevant, and does not tend to prove the issues. 3d. Because at the most the answer can only be used in favor of the party answering. But the court permitted the passages to be read in evidence for Patrick C. Shannon. The defendant, Patrick C. Shannon, also read in evidence, under the same objections, the last part of his answer to the first interrogatory, from the words "This defendant," on the third line of the fourth page, and the answer to the third interrogatory down to the words "The right and title of this defendant," on the twelfth line of the ninth page, except the words "and does actually possess and hold," these last words and the remainder of the answer to the said interrogatory being excluded by the court upon the objection of complainants.

17.

Answer of Belden and Stillman

To first interrogatory ; to second interrogatory, except part amended ; to third interrogatory ; to fifth interrogatory ; also, amended answers read by complainants, being amendments 1, 4, 6, 8. Second.

The complainants read at the hearing the following passages in the answer and amended answer of Samuel A. Belden, adapted by Charles Stillman, stating that they were read as admissions contained in the pleadings, and not in the technical sense as evidence in *in* the cause. The passages thus read were the answer to the first interrogatory, and the amendments thereto, being the sixth amendment and the fourth amendment ; the answer to the second interrogatory, and the eighth (second) amendment, and the first amendment, except the passage in brackets at the end thereof ; the answers to the third and fifth interrogatories. The defendants, Belden and Stillman, offered to read, upon their part, as evidence at the hearing, the parts of their answer and amendments so read by the complainants, to which the complainants objected for the following reasons: 1st. The jurat to the answer is not properly certified, and it does not appear that it was sworn to before a competent officer. 2d. The amendments are not sworn to, but are only admitted as pleading. 3d. The answer of a defendant cannot be read in evidence for him, except upon a question of costs. 4th. The testimony offered is irrelevant, and does not tend to prove the issues on the part of the defendants. But these objections were overruled by the court, and the said parts of the answer and amendments were read in evidence by the said defendants.

To interrogatory 1: As to interrogatory No. 1, in complainants' bill contained, respondent answers and says: That it is not true that

this respondent, and, so far as he is informed and believes, any of his associates, parties defendant to this bill, have obtained any grants of land direct from the ayuntamiento of Matamoras. But true it is that this respondent, acting with his associates, have purchased, procured, and obtained from other persons divers tracts of land, including the town site of the town of Brownsville, the authenticated grants and title papers to which this affiant, with the utmost diligence by him used, has not been able to procure in proper form, as the official records wherein the same are archived were sealed up and closed on the commencement of the late war between Mexico and the United States, and have not since been opened, and for this reason this defendant is unable at this time to answer further and more fully this interrogatory further than to assert and claim a title to portions of said tract of land under such grants or claims.

To interrogatory 2. As to interrogatory No. 2, respondent answers and says that the defendant has not procured or caused to be procured certain or any headright certificates, bounty warrant, land scrip, or other evidence of title to land issued under the authority of the republic or State of Texas, and have not located nor caused to be located, surveyed nor caused to be surveyed, the said evidences of title to land upon any portion of the tract in the said bill of complainants described, but it is true that this defendant, with others, have purchased and procured from David Snively, by regular transfer and conveyance, about one league of land, embracing the town of Brownsville, located and surveyed by the surveyor of Cameron county in the year 184 , for David Snively, under headrights issued by * * * * , bounded and described in said surveys, all of which will more fully appear by reference to a certified copy of said locations, field notes, and surveys, marked Exhibit No. 1, and made a part of this answer.

To interrogatory 3. As to interrogatory No. 3, respondent answers and says that true it is that he, as one of the defendants with his associates, claim a right to take possession of and to exercise all the rights and privileges of ownership in full over the land herein described in said defendants' answer to interrogatories No. 1 and 2, and that he so claims under and by virtue of as well the headright certificates, locations, certificates, surveys, and field notes as heretofore set forth in this defendant's answer to interrogatory No. 1 and 2 in said bill of complainants contained, as also by virtue of conveyances from parties holding title from the ayuntamiento of the city of Matamoras and the State of Tamaulipas to certain ejidos or tracts of land, but which is out of this defendant's power more fully to describe and particularly set forth at this time, for the reason that he is unable to have access to the public archives of said city and State, where the aforesaid titles are kept, as heretofore stated.

To interrogatory 5. As to interrogatory No. 5, respondent answers and says that he, in conjunction with his associates, have made use of the public offices of the State of Texas and of the records of the county for all legal and rightful purposes connected with their interests which in law they had a right to do, and none others.

1st amendment. First, the said Belden, defendant, amends his answer on the third (3) page thereof, and immediately after the word

“located,” by striking out all on said third page after the word located, on the 17th line of said page, and inserting the following words: On the eighth day of January, A. D. 1847, for David Snively, under and by virtue of a headright certificate granted to Henry Hudson for twenty-six labors of land, said location to begin two hundred varas below “Fort Brown,” on the east bank of the Rio Grande, thence to run up said river for legal front and back for quantity; also six hundred and forty acres, donation *HH*, to begin at the upper corner of the location made for Henry Hudson, to run up the Rio Grande and back for quantity; and afterwards, to wit, on the seventeenth (17) day of August, A. D. 1847, the said David Snively directed the surveyor of the land district of Nueces and San Patricio, said land district then embracing all the land in controversy in this suit, to apply a league and labor granted to James Taylor on the location, in place of Henry Hudson’s certificate for the twenty-six labors above described, the said David Snively then and thereby substituting the said certificate granted to James Taylor under the authority of the republic of Texas in the place and stead of the certificate of the said Hudson, as he, the said Snively, lawfully had a right to do, and also on the twentieth day of March, 1847, the said David Snively made the following locations: First. One of three hundred and twenty acres of land, under a good and valid land warrant issued to James St. John, said location commencing one hundred yards below Fort Brown, on the Rio Grande, running down the river for front and back for quantity. Second. One other good and valid land warrant for other three hundred and twenty acres of land issued to James St. John, beginning at the lower line of the survey and location last above named, and running down the river and back for quantity. Also the said David Snively did, on the day and year last aforesaid, make one other location under certificate number , to begin at James St. John’s lower corner of the location last aforesaid, on the Rio Grande, running down said river for front and back for quantity; and also the said David Snively, on the day and year last aforesaid, made a location for and of three hundred and twenty acres of land, under a good and valid certificate issued to James Fox, beginning at the lower corner of location made for I. Black, by virtue of certificate number , on the Rio Grande, running down the river for front and back for quantity; and on the 25th day of April, A. D. 1848, the said David Snively made the following other locations: one under a certificate No. 111, issued to J. W. B. McFarland, issued by the board of land commissioners for the county of Victoria, one league of land, to begin at the lower corner of a survey made for J. Baxter, opposite Matamoras, on the Rio Grande, to run down said river for front and back for quantity; also another location of and for three hundred and twenty acres of land, to begin at the lower corner of a location made for and under the location made by virtue of said certificate above described, issued to J. W. B. McFarland in certificate No. 111, to run down said river for front and back for quantity. Also another location for six hundred and forty acres of land, under and by virtue of donation warrant No. 1140, to begin at said David Snively’s lower corner, to run down said Rio Grande for front and back for quantity.

Also another location under land warrant, valid in law for nine hundred and sixty acres of land, issued to J. W. B. McFarlane, to begin at the lower corner of location under certificate No. 1140, to run down said Rio Grande for front and back for quantity. Also another location for six hundred and forty acres under certificate No. 1140, issued to J. Curling, to begin at the lower corner of No. 310, a location made for J. W. B. McFarlane, to run down said Rio Grande for front and back for quantity. All of which said certificates and locations were made as aforesaid under them, and all rights arising under and by virtue of said certificates and locations to said lands so located were duly, legally, and validly assigned, by the rightful holders and owners thereof, to Charles Stillman, one of the defendants in this case, to the extent of one league and one labor of land, embracing the present site of the town of Brownsville. And afterwards, to wit, on the 7th day of November, A. D. 1848, for greater security and certainty in securing the just rights of said defendant, Charles Stillman, he, the said Charles, located and caused to be located the following described certificates, a copy of which said locations was and is in the words, terms, and figures following: "Charles Stillman makes application for the following certificates and land warrants to be located on the Rio Grande, in the county of Cameron: Certificate No. 36 for 1,280 acres of land issued to Estevan Villareal by the board of land commissioners of the county of Nueces, to begin at the lower corner of location made by David Snively on the left bank of the Rio Grande, on certificate No. 39 for 320 acres, issued by the board of land commissioners of the county of Nueces, to run down for front and back for quantity, according to law. Also certificate No. 18 for 640 acres, issued to Sabas Medrano by the board of land commissioners of the county of Nueces, to begin at the lower corner of certificate No. 36 for 1,280 acres of land, to run down for front and back for quantity, according to law. Also balance of land warrant No. $\frac{532}{632}$, issued to Jacob Snively by the commissioners of the general land office for 960 acres on the 6th of April, 1847, to begin at the lower corner of No. 36, to run down for front and back for quantity, according to law. Corpus Christi, November 7, 1848. (Signed) Charles Stillman." And the said defendant, Samuel A. Belden, further says that on the 6th day of November, A. D. 1847, a survey was made for the said defendant, Charles Stillman, who was the assignee of David Snively, who was the assignee of J. W. B. McFarland, under headright certificate No. 111, which said survey is set forth more at length and with greater certainty and particularity in and by a certain paper exhibit filed in this cause, marked *F*, and is now filed with and made a part of the testimony of Felix A. Blucher in this cause; and that on the 8th day of November, A. D. 1848, another survey was made by the said Charles Stillman, assignee of David Snively, assignee of certificate No. 39, issued by the board of land commissioners of Nueces county (and which, for greater certainty, exhibit *G*, attached to exhibit *F*, is referred to) on the third day of January, 1848; and that on the first day of December, 1848, another survey was made for the said Charles Stillman, assignee of J. Snively, for 960 acres of land, under land warrant issued by the commissioners of the general land office of the State of Texas on the sixth day of

April, 1847; and that on the twenty-second day of November, 1848, another survey was made for the said Charles Stillman, who was assignee of David Snively, who was assignee of Sabas Medrano, of 640 acres of land, under certificate No. 18, issued by the board of land commissioners for the county of Nueces on the 10th of January, A. D. 1848, which said survey is set forth at length and with greater certainty and particularity in and by a certain paper exhibit filed in this cause, marked *H*, and is now filed with and made a part of the testimony of Felix A. Blucher in this cause. And that on the 27th day of November, A. D. 1848, another survey was made for the said Charles Stillman, who was the assignee of David Snively, who was the assignee of Estevan Villarael for 1,280 acres of land, under and by virtue of certificate No. 36, issued by the board of land commissioners for the county of Nueces on the 31st of January, 1848, which said survey is set forth more at length and with greater certainty and particularity in and by a certain paper exhibit filed in this cause, marked *Copy*, and attached to the last named preceding exhibit, and now filed with and made part of the testimony of Felix A. Blucher in this cause. And afterwards, on or about the 15th day of August, A. D. 1848, the said defendant, Charles Stillman, was the holder, owner, transferee, and legal assignee of the following named and described certificates: *First*. The certificate to John Chubb, No. 398, 4th class, issued by the board of land commissioners of the county of Galveston, for 320 acres of land. *Second*. The certificate to Francisco Guzman for 640 acres of land, issued by the board of land commissioners of Bexar county, and numbered 458, 2d class. *Third*. The certificate to Michael Judd, issued for 640 acres of land, issued by the board of land commissioners for Galveston county, numbered 251, 2d class. *Fourth*. The certificate to Juan Rodriguez Montemayor for 640 acres of land, and numbered 388, 2d class, and issued by the board of land commissioners of the county of Bexar. *Fifth*. The certificate to Antonio for 320 acres, issued by the board of land commissioners of the county of Bexar, and numbered 295, 4th class. *Sixth*. The certificate to Francis Bartalmis for six forty acres of land, issued by the board of land *issued by the board of land* commissioners of Galveston county, and numbered 136, 4th class. *Seventh*. The certificate to John B. Fox for one-third of a league of land, numbered 846, and issued by the board of land commissioners of the county of Harris, 2d class. *Eighth*. The certificate to Henry H. Wheeler for 640 acres of land, issued by the board of land commissioners of the county of Montgomery, numbered 79, 4th class. *Ninth*. The certificate issued to Henry H. Wheeler by the board of land commissioners of the county of Grimes, and numbered 15, 4th class. And that the said Charles Stillman, for greater security of his rights, did, on the said fifteenth day of August, A. D. 1848, cause all and each of the last named nine certificates to be located upon the league of land embracing the whole and entire site of the town of Brownsville, which locations will appear more at length and with greater certainty by reference to Exhibits marked *A* and *B*, and are attached to and are on file with the testimony of Felix A. Blucher in this cause, and also copies of all and each of the above named certifi-

cates are attached to said testimony of said Blucher, and are marked *G*, *D*, and *E*, and are referred to as Exhibits in this amended answer.

[4th Amendment.]

On the 7th page of said answer, and in the 8th line of said page, and immediately after the words "among others to," on said 8th line, insert the following words, that is to say: to Manuel Vela one labor, on the twenty-fifth day of May, 1839, who transferred said labor to Charles Stillman, one of the respondents, on the 6th day of December, 1848. Also to Agapeto Vela, one other labor of said land on the — day of —, 18—, and which said labor of land was transferred and conveyed to said Charles Stillman on the said 6th day of December, 1848. Also that one Santos Ybaño had and occupied as his own another labor of land prior to November, 1834, and which was by said Santos transferred and conveyed to Encarnacion Trevino, and was transferred by said Trevino to Doretaro Zamosa in 1843, and which said transfer and conveyance was confirmed and ratified by deed dated 10th day of January, 1849, and which said labor was transferred and conveyed from Zamora to Charles Stillman aforesaid on said 6th day of December, 1848, by deed of that date; also one other labor of land was, on the — day of —, 18—, to Juan Treanor granted, transferred, and conveyed, and was surrendered by said Juan Treanor on the twenty-fourth day of August, 1842, to Antonio Longoria as syndic, together with other property of said Treanor, for the purpose of being held by said syndic for the benefit of the creditors of said Treanor; and in pursuance of said surrender, and by virtue of his powers as syndic as aforesaid, the said Antonio Longoria, on the 15th day of December, A. D. 1848, before Joaquin Arguelles, and his assisting witnesses, a notary public in and for the city of Matamoras, in the republic of Mexico, executed a transfer or act of sale of said last named tract of land to Jacob Mussina for a valuable consideration, which said tract contained and contains about 170 acres. This labor was purchased as aforesaid and hereinbefore stated at said sale, and paid for by this respondent and Charles Stillman, also defendants herein. But that, without the knowledge of this respondent, or the knowledge of the said Charles Stillman, the deed was taken by Simon Mussina to Jacob Mussina. Also one other labor of land was granted on the 6th day of June, 1840, to Manuel Trevino *alias Canales*, and was transferred by said Trevino to this respondent, Charles Stillman, and Jacob Mussina, by deed bearing date 30th of January, 1849; also one other labor of land heretofore known as the property of Calonna Vela, granted by said ayuntamiento of said city of Matamoras, to —, about the — day of —, 18—, and surrendered by said Caterina to Walter Henry as syndic of the said Catarina for the benefit of the creditors of said Catarina, about the 27th day of May, 1845, and was by said syndic Walter Henry sold, transferred, and conveyed to Manuel Trevino on the 9th day of June, 1846, and was conveyed and transferred by said Manuel Trevino to this respondent, Charles Stillman, and Jacob Mussina, on the 30th day of January, 1849; and respondent further says that the

tract or labor of land last named was duly conveyed by said Caterina Vela and others, on the 20th day of December, 1848, to said respondent Stillman ; also one other grant was made from said ayuntamiento of the city of Matamoras and by authority of said city, to Onofre Rebalcaba, to Manuel Trevino Canales, on the 15th day of December, 1848, and was also conveyed by Andres Peneda to the said Trevino, on the — day of —, 1845, and by said Trevino to this respondent and the said Charles Stillman and Jacob Mussina was conveyed on the 30th day of January, 1849 ; also another labor and tract of land was granted by said city and its authority to Manuel Vela on the 19th day of February, 1842, and was by said Vela transferred to Manuel Trevino on the 6th day of December, 1848, and was by said Trevino transferred and conveyed to this respondent, the said Charles Stillman, and Jacob Mussina, on the 30th day of January, 1849 ; also another labor and tract of land was granted by said city and its authority to Manuel Vela on the — day of —, 18—, and was by said Vela transferred to Manuel Trevino on the — day of —, 18—, and was by said Trevino transferred and conveyed to this respondent, the said Charles Stillman, and Jacob Mussina, on the 30th day of January, 1849 ; also one other grant of said city of Matamoras and its authority of one other labor or tract of land, on the 6th day of June, 1840, to Ignacio Flores, and was transferred and conveyed by said Flores, on the 22d day of January, 1845, to Teodoro Molino, and was transferred and conveyed by said Molino on the 30th day of January, 1849, to Manuel Trevino, and on the day last aforesaid was duly transferred and conveyed by said Trevino to this respondent, the said Charles Stillman, and Jacob Mussina ; also another grant of one labor or tract of land was made by said city of Matamoras and its authority, on the — day of —, 18—, to Francisco Fragosa, and was by said Fragosa transferred and conveyed by said *Fragosa* to this respondent, Charles Stillman, and Jacob Mussina aforesaid, on the 30th day of January, 1849 ; also one other grant of one other labor and tract of land was made by said city and its authority on the 12th day of April, 1834, to Jose Acozario Garza, and was transferred and conveyed by said Garza to O. F. Janes on the 5th day of July, 1848, and was transferred by said Janes to this respondent, and the said Charles Stillman and Jacob Mussina, on — day of May, 1849 ; and the said Garza by deed dated on the 23d day of May, 1849, confirmed said conveyance and transfer to said Janes ; also one other grant of one other labor and tract of land was granted by said city of Matamoras and its authority on the 19th day of April, 1834, to Maximo Siena, and was transferred and conveyed by said Siena to Caterina Vela on the twenty-third day of January, 1837, and was transferred and conveyed by said Vela to Juan Galan on the 17th day of June, 1848, and was by said Galan transferred and conveyed on the 29th day of June, 1848, to O. F. Janes, and was transferred and conveyed on the — day of May, 1849, to this respondent, and the said Charles Stillman and said Jacob Mussina, by said Janes ; also one other grant of one other labor and tract of land was on the 19th day of July, 1842, by said city of Matamoras and its authority granted to Antonio Salinas,

and was conveyed and transferred by said Salinas on the 22d day of September, 1846, to Francisco Garcia Trevino, and was by said Trevino on the 1st day of December, 1849, conveyed and transferred to the respondent, Charles Stillman; also one other grant of one other labor and tract of land was by said city of Matamoras and its authority made to Vincente Valerio, on or about the 20th day January, 1844, and was by said Vincente transferred and conveyed to Francisco Garcia Trevino on the 22d day of September, 1846, and was by said Trevino conveyed and transferred on the 1st day of December, 1849, to said respondent, Charles Stillman. And respondent further says, that said Charles Stillman is the owner of one other labor and tract of land in his own and exclusive right, which said tract and labor of land was purchased and acquired by said Charles Stillman of Miguel Salinis, by deed dated 6th day of December, 1848, as will more fully appear by the exhibit herewith filed and made part of this amended answer, marked No. 9.

[6 Amendment.]

Amendment of respondent, Samuel A. Belden, to the first interrogatory of complainants, to be inserted on the 10th page of said respondent's answer, and immediately after the word "claims" on the 29th line of said page, and for further answer to the interrogatory numbered 1 in complainants' bill of complaint, this respondent says, that he and his associates claim all of the tract of land on which the town site of the town of Brownsville stands and is situated as their own, and that their title to the same having been derived from and through the city of Matamoras and its authority, is more fully contained and set forth in the *fourth* amendment of this respondent's answer to the said bill of complaint herewith filed, which said amendment, and all thereof, is hereby referred to and made part of this respondent's answer to the first interrogatory, together with the exhibits, transfers, and conveyances filed herewith and marked and numbered as follows:

[8 Amendment.]

On the 11th page of said answer, and 17th line of said page, immediately after the word "by" in said line, insert the following words, that is to say: The Republic of Texas, and the State of Texas, and under the lawful authority thereof, which said headrights, locations, and surveys are more fully described by reference to the first amendment made by this defendant to his answer herein inserted on the third page of said original answer of this respondent, which said amendment is referred to and made a portion of the answer to this interrogatory, together with said exhibits therein referred to, and in said first amendment described as *exhibits*; and said respondent further says, that the respondent, Charles Stillman, did procure the certificates, bounty warrants, and land scrip issued under the authority of the Republic or State of Texas, and did locate or cause to be located the same upon said land, and did cause the same to be surveyed in the same manner as said locations and surveys thereon are set forth and

described in said first amendment of this respondent to his original answer herein.

18.

Map made by George Lyons, referred to in 9th amendment of Belden and Stillman.

(For map, see original, page 1570.)

19.

Answer of Jacob Mussina.

(Same parts read by complainants.)

The complainants at the hearing read the following passages in the answer of Jacob Mussina, stating that they were read as admissions in pleading, and not in the technical sense as evidence in the cause. The passages thus read were the answer to the first interrogatory, except the words "hold and" in the eighth line on the second page. The answer to the second interrogatory, except the words "to hold and own" in the fourth line of the third page, and the answer to the fifth interrogatory. The defendant, Jacob Mussina, offered to read in evidence on his part, at the hearing the passages so read by the complainants, to which the complainants objected for the following reasons: 1st. Because the said answer is not sworn to by Jacob Mussina, and can only be considered as pleading. 2d. Because the answer of a defendant cannot be read as evidence for him, except on a question of costs. 3d. Because the testimony offered is irrelevant, and does not tend to prove the issues. But these objections were overruled, and the said passages were read in evidence by the said defendants.

This respondent is unable at this time to give more in detail, for the reasons that he has not the papers and documents in his possession to enable him to do so. He expects soon to have the means in his possession of fully supplying these omissions, and he craves leave to amend this his answer in these particulars at the earliest practicable time in his power. This respondent further admits and states that he, in conjunction with the said Stillman and Belden, do * * claim to own the east bank of the Rio Grande river, nearly opposite the city of Matamoras, the tract of land on which the town of Brownsville is laid out and situated, under and by virtue of the said grants above mentioned issued by the Ayuntamiento of Matamoras to the persons who have conveyed and sold their right, title and interest to and in the same to the respondent and his co-purchasers.

To interrogatory 2. The respondent answers that he has not procured, or caused to be procured, purchased, surveyed or located on any of said land in the bill of complainants described, any headright certificates, bounty warrants, or other evidences of title issued or granted by the Republic or State of Texas to any person whatever, nor does he lay claim to any of such land by virtue of any such purchase, survey or location that he and his co-purchasers, the said Stillman and Belden, have purchased from other persons their right, title and interest to certain surveys and locations, including about one league

of land on the east side of the Rio Grande, nearly opposite the city of Matamoras, and covering and embracing as a part thereof the town site of Brownsville, the dates of these certificates and evidences of title, the persons to whom made and given, the surveys thereon, and the date of purchase and transfer, this respondent cannot particularly set forth for the reason that he has not the necessary papers and documents for that purpose in his possession. As soon as he can procure them he craves leave to amend this his answer, and to set forth and describe them fully in such amendments. This respondent and his said co-purchasers claim * * all said land covered in and by said surveys and locations by virtue of the same, in addition to the title derived from the grants of the Ayuntamiento of Matamoras referred to in his answer to the first interrogatory.

To interrogatory 5. This respondent answers that he has made such use of the public offices of the State as the law allowed to record his titles and evidences thereof and no other use, as will fully appear from a reference to said offices and records to which complainants have alluded in their said bill.

20.

Testimony of R. H. Hord.

Robert H. Hord, esquire, called by complainants at the hearing to prove original testimonio of grant to bearing date

Mr. Hord's testimony being objected to by the solicitors of Jacob Mussina, one of the defendants, and Mr. Hord himself claiming exemption from being called as a witness by the complainants, on the ground that he was interested in the event of the suit, he was sworn upon his *voir dire*, and in answer to questions testified as follows: "Since the installation of this suit I have purchased the entire interest of Stillman and Belden, two of the defendants. I am also interested in favor of the establishment of the old title which I am now called to prove up, but I am more largely interested in the success of the defence of this suit. Jacob Mussina has no interest in the property in controversy; he forfeited any joint interest which he may have ever claimed with Stillman and Belden by failing to perform any contract which he may pretend to have had with them."

The solicitors for Jacob Mussina, one of the defendants, thereupon put the following questions to Mr. Hord:

"Have you, or have you not, any understanding or agreement with the complainants, or either of them, or their agent or solicitors, in relation to the determination or settlement of this cause, or of any of the matters involved therein, adverse to any interest or rights claimed by Jacob Mussina in any property or rights involved in this suit? Are you, or not, interested in any such understanding or agreement?"

Which question Mr. Hord declined to answer, and thereupon the court decided that the question need not be answered.

And thereupon the said Robert H. Hord, being sworn in chief by the court, deposed and said as follows:

"I can say nothing about the genuineness of the signatures at the

end of the testimonio of title produced by complainants. I had supposed that they were genuine, from the fact that about two years and a half ago, I received from my clients a title for the lands of Concepcion de Carrisitos, which I supposed to be genuine; it had marks of age, and I had been told by others it was genuine. It had been generally acknowledged and acted on as such. The signatures to the title produced by complainants appear to be the same as those on the Carrisitos title. I examined both very particularly some time ago, as I was attorney for some of the parties claiming under the first and for those claiming under the second. It is my impression that they are both genuine.

"A subpoena was served upon me to produce in this cause the testimonio of title for the lands of Concepcion de Carrisitos and the lands about the Great Salt Lake. At the time the subpoena was served on me I was from home, and these titles were in the possession of my partner, Mr. Basse. They have since and before my return home been delivered by him to the commissioners for the examination of titles on the Rio Grande, and were lost in the Gulf by Dr. Miller, one of the commissioners.

"The Carrisitos title was generally regarded by the Mexicans as genuine and valid. The Americans generally deny the validity of this title as of all others, on the ground that the separation from Mexico annulled them and left the land vacant.

"I recollect seeing Mr. William G. Hale make a copy on tracing paper of the signatures at the end of the Carrisitos title in my office. I cannot say that the tracing paper presented to me and annexed to Mr. Hale's testimony is the same, but it resembles it."

Cross-examined by the defendants. "I compared the signatures spoken of and examined them carefully. They appear to be of the same. I do not consider myself an expert in the examination of handwriting. Mexicans are very expert in the imitation of handwriting. I have often seen it done by them in such a way that I could not detect it. I have not made it an object or business to compare handwriting.

"I do not know that the genuineness of the Carrisitos title is any more acknowledged than that of the grant sued on. I have never heard the genuineness of either doubted among the Mexicans."

The following depositions of Antonio Jimenes Valdez and Rufino Rodriguez were also offered in evidence by complainants at the hearing as rebutting testimony, and the same objections made thereto as to the preceding depositions in the same package, all which were overruled by the court, and the said depositions were read in evidence by complainants.

JAMES LOVE, *Clerk.*

Translation.

On the fourteenth of November of one thousand eight hundred and forty-nine, present in court the notary public, Don Antonio Jimenes Valdez, his honor administered to him the oath by God our Lord and

a sign of the Holy Cross; upon which he declared he would state the truth as to what he might be asked; and being interrogated according to the tenor of the interrogatories propounded to him by Don Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Goseascochea de Cortina, plaintiffs, against Charles Stillman, Samuel A. Belden and others:

To the 1st, he said that he knows none of the parties.

To the 2d. After the papers mentioned in this interrogatory, and which, presented by William G. Hale, had been exhibited to him, with the contents of which he was made acquainted, he said that the signature that is formed at the end of the name Rufino Rodriguez is the same that the said Rodriguez uses and is accustomed to employ; and that when he certified the documents with it he was chief clerk in the office of the secretary of the government of this State, with the powers of secretary, since this place was then vacant.

To the 3d. That the seal stamped upon the left margin of each one of the aforesaid copies is that which they use in the said office of the secretary of state, and with it all the official documents that his excellency the governor or the secretary authorizes are sealed.

To the 4th. That the signature which he has placed to the certificate, at the end of each one of the said copies, is that which he uses and is accustomed to employ, and the mark (signo) is that which he adopted at his admission as notary public, in which character he certified.

To the 5th. That he knows nothing more. Thereafter he was interrogated in reference to the cross-interrogatories that the defendants put to him, and

To the 1st, he said that he is thirty-four years of age; that he is a citizen and resident of this city; that he was examined for his admission as notary by the supreme tribunal of justice of this State, and is in the practice of this profession at the present time.

To the 2d. That he has not in his possession the original documents to which the question refers, but that they are in the archives of the office of the Secretary of State, and that he answers that he did nothing more than to certify that the signature of Don Rufino Rodrigues was that which he used, and which he uses at the present time, as he has said.

To the 3d. That he has never seen the secretary to the government of this State.

To the 4th, and last. That what he has declared is the truth, since he is sure of its correctness; he affirmed and ratified everything that this his deposition contains, and has signed with his honor, before me, which I certify.

JACOBO MART'Z.;

ANT. JIM'Z VALDEZ.

CIPO. GUERRERO.

On the said fourteenth day of November, his honor the judge, assisted by me, the notary, went to the residence of the secretary of the government, Don Rufino Rodriguez, who, being present, he declared under oath before his honor that he would answer truly to what

was asked him ; and having been interrogated in relation to the questions propounded to him by the plaintiffs against Charles Stillman and others, and being informed of them,

To the 1st, he said that he knows Don Rafael Garcia Cavazos, Doña Josefa Cavazos, and that he does not know Doña Estafana Gozeascochea de la Cortina ; that as regards the defendants he only knows Charles Stillman, Doña Maria de los Angeles Safen de Tárneva, Don Ramon Safen, Doña Feliciana de Tigerina, and Don José Manuel Prieto.

To the 2d. That from the month of April, of the year one thousand eight hundred and forty-eight, till the month of June of the present year, he was chief clerk in the office of the secretary of the supreme government of this State, and that from the said month of June to this date he has been secretary of the said government.

To the 3d. The document marked *N*, which was presented by William G. Hale, having been exhibited to him, he said that the said printed document is a copy of the old constitution of this State of Tamaulipas ; that it is correct and true, (and that as such it was observed and executed in all its articles.)

To the 4th. (The document marked *O* having been exhibited to him,) he said, that it is the constitution amended by the extraordinary congress of the past year, one thousand eight hundred and forty-eight, and the one which is now in force in this State.

To the 5th. (Looking at the document *P*,) he declared that it is a faithful copy of the law of colonization.

To the 6th interrogatory. The deponent does not answer it, because G. Hale has not exhibited the book mentioned in it, because it is not yet printed, although it is under press.

To the 7th. Having seen the documents *G*, *H*, *I*, *J*, *K*: That the signature to these documents, and at the end of his name and surname, is the same that he uses and is accustomed to use, and that they are copies faithfully made from the originals, which are in the office of the secretary of the government of this State.

To the 8th. Looking at the paper marked *R*: That they are the signatures of his excellency the governor, Don Jesus Cardenas, and Don Ramon F. Valdez, because he saw them sign, and that the said paper is authentic, because, besides, the deponent placed it in the envelope.

To the 9th and last interrogatory. That he knows no more.

He was interrogated as to the tenor of the cross-interrogatories put to him by the defendants, Charles Stillman and the rest, and

To the first, he said that there exists a great number of documents, as well in print as in manuscript, which the deponent has certified as secretary of the government of this State, and which prove that he held this office.

To the 2d and last. That in the office of the government exist all the originals of the copies which have been given at the request of the plaintiffs ; and the essential base of the whole matter is the note of the twentieth of October, of one thousand eight hundred and forty-eight, marked with the letter *R*, in which the government has only fulfilled the legislative resolution which the honorable congress issued at the

same date he affirmed and ratified this his deposition, and signed it, with his honor the judge, before me, of which I certify.

JACOBO MART.
RUF'O RODRIGUEZ,
CIP'O GUERRERO.

2.

Documents marked G, H, I, K, proved by Rodriguez and Valdez.

CAVAZOS and others }
vs. }
STILLMAN and others. }

Documents marked *G, H, I, K*, and hereunto attached, were offered in evidence by the complainants at the hearing, in connexion with the depositions of Rufino Rodriguez and Antonio Jimenes Valdez, and were objected to by the defendants. It was specially objected that the said testimony was incompetent; that it was of proceedings by officers and tribunals, without any authority over the subject-matter thereof; that it was irrelevant; that the same were not sufficiently proved to be true copies of the originals; that said depositions were not properly taken, said Valdez having failed to answer the fourth and last cross-interrogatory, but evaded the same; that the seal purporting to be the seal of the State of Tamaulipas, on the left hand margin at the top of the page of each of said documents, does not sufficiently purport to have been placed there by a proper officer for the purpose of authenticating said documents; that it is at a proper place for that purpose; that said documents were not attached to said interrogatories, nor in any way identified as the documents therein referred to, nor do they sufficiently appear to be the documents proved by said depositions.

JAMES LOVE, *Clerk.*

Translation.

G. Fourth seal—one real. To his excellency the Governor. Don Juan Treanor, a citizen of Matamoras, and residing in this city, in the name, and with the ample power of Don Rafael Garcia Cavazos, appear before your excellency and say: That necessity compels me to apply for protection against the proceedings that the Illustrious Ayuntamiento of that port are dictating, to the prejudice of the interests of my principal, as well as to the violation of the constitution and laws, and injury to the truth, as purposely confounding facts, they claim to bring within their power so as to dispose of them as *proprios* some lands that are the exclusive property of my principal. The first copy that I present proves the primitive title of acquisition of the Potrero del Esperitu Santo, made in favor of the ancestors of my principal, with which right of dominion Doña Francisca Cavazos disposed of it according to the thirteenth clause of her will, which I also exhibit, and in it appears the appointment of Doña Josefa Cavazos as heir by its fourth clause, this lady being the wife of my

principal. The same thing appears in the seventeenth clause of the will of Don Blas de la Garza, husband of Doña Francisca, in which the fifth of his estate is devised to the aforesaid Doña Josefa. And finally, your excellency may see in the act of partition made between the heirs of Doña Francisca that ten sitios of these same lands of the estate of Esperitu Santo were assigned to Doña Josefa. After a right of property so clearly and legally demonstrated, it is evident that no individual or corporation can dispose of it without a violent spoliation, and even more, without a crime. Notwithstanding this, the Ayuntamiento of Matamoras, certainly with an incorrect understanding of the facts, is at this time present, treating for the sale of these lands to some persons from North America, under the pretext undoubtedly that they may be considered Ejidos, while they have never been surveyed as such, as the Government knows, and while, even should they be so considered, the labors and other real property there obtained would always remain private property, of which the Ayuntamiento could not dispose. If, then, neither the government could make the expropriation, unless for causes of public utility, and it does not seem that there is such in this, and even less politically considered, since the project is to alienate them to North Americans; if, then, there is as little doubt of the indisputable right of property of my principal, by the legal titles that have been exhibited, neither can a moment's doubt be entertained as to my right to be protected in the property and possession of these lands. And I will not, your excellency, claim as a merit the fortitude with which my principal has sustained the consequences of the war; nor of the decision with which I myself withdrew to Matchuala from the beginning of the war, adhering to the National cause; this is a question of an act of justice, and upon that alone I rely to obtain it from the Government. Wherefore I pray your excellency to be pleased, after examination of all the documents presented, which might establish my right of property, and which I request may be returned to me, to protect me in the possession and property of the estate of Esperitu Santo, declaring that if the Illustrious Ayuntamiento believe that they know of any right, they should present it before your excellency, or before the tribunals having jurisdiction of your cause; this is favor and justice that I ask. City of Victoria, September the seventh, one thousand eight hundred and forty-eight.

JUAN TREANOR.

This is a faithful copy of the original, which is included in the proceedings placed among the archives of this office of the Secretary, from which it is copied by order of his excellency the Governor, and at the request of the interested party, on this sheet of paper of the fifth seal, this the twenty-eighth day of February, one thousand eight hundred and forty-nine, the citizens ANDREZ GUERRERO, FRANCISCO DE P. FERNANDEZ, and DARIO BALANDRANO, here resident and present, being witnesses.

For want of a Secretary,

RUFINO RODRIGUEZ, *Chief Clerk.*

The undersigned certify that Don Rufino, by whom the foregoing document appears authorized, is Chief Clerk in the Secretary's Office of the Government of this State, and that at the present time he is discharging the duties of Secretary, and that on this account entire faith and credence has been and is now given to whatever he authorizes, and that this may appear we give the present certificate, in the city of Victoria of Tamaulipas, on the first of March, one thousand eight hundred and forty-nine.

ANT'O JIM'Z VALDES, *Not. Pub.*

CIP'O GUERRERO, *Not. Pub.*

Translation.

I.

Executive of the State of Tamaulipas: I have the honor to enclose to your honors, in order that you may be pleased to lay it before the honorable congress, a statement of the illustrious ayuntamiento of Matamoras, in which they ask leave to alienate the part of the Ejidos that they possess on the left bank of the Rio Bravo. There is also annexed the reclamation which Don Juan Treanor, with a full power of attorney from Don Rafael Garcia Cavazos, has made opposing the alienation indicated, on account of a part of the lands granted by the order (disposicion) of the authorities of the said corporation having belonged originally to his principal, and the corporation has not complied till the present time with the condition of indemnifying the owners, as is provided in the constitutional law. The executive has ordered the ayuntamiento to furnish the corresponding answer in form, with respect to the petition of Juan Treanor, but considering that the question, from its nature and from the different aspects that it presents, requires a legislative resolution to decide it in general without being limited to any particular person, the executive has abstained from making any orders, and has reserved the determination for this honorable congress, believing it more peculiarly within its functions. Notwithstanding the executive believes it his duty to state the reasons which, in his opinion, oppose the application of the ayuntamiento of Matamoras, since as this may be the object of well-founded reclamations, and these may invoke in their support the stipulations of the treaty of peace made with the United States of the north, it is very important and proper that in no event the infraction of what has been offered and agreed with the best good faith should be attributed to the Mexican authorities. In order to form a correct judgment upon the controversy that exists between the ayuntamiento of Matamoras and the ancient proprietors of the lands that were ordered to be assigned as ejidos, it is necessary to begin with a *with a* well established fact, notorious to all and acknowledged by both parties. The previous indemnification that the constitution provides in order to give the power of disposing of private property for the public benefit has never been in a state to be paid (*unca ha llegado en el caso á tener efecto*), and this circumstance operates in favor of the original proprietors in order to prevent the projected alienation, since although

the ayuntamiento maintains that it has always been in possession of its Ejidos, this reason would seem to establish that it ought not to be interrupted or disturbed in that possession by any individual or Mexican authority, but not to sustain the position that when that possession is lost by virtue of international arrangements effected by virtue of a solemn treaty of peace, it still preserves a right of property which it has never succeeded in legally perfecting, on account of not having complied with one of the necessary conditions which the constitutional law grants in favor of citizens such as the previous indemnification. The ayuntamiento agrees as well in its petition as in its answer that it can and ought not to continue in the possession of ejidos in a foreign country; and this is sufficient to convince us that the cause or motive of public utility, in virtue of which the proprietors were bound to cede their lands, have ceased. So that if these latter have not been previously compensated, they have an incontestable right of action to recover their own property on account of the necessary condition of the expropriation not having been fulfilled, and this is exactly the case in which the right of retrocession or reversion applies, restoring things to their former condition, since the right of property ought to be sacrificed alone to public convenience, and when this latter ceases, as in the present case, on account of the ayuntamiento of Matamoras not being able to possess lands as ejidos within the territory of the United States of the north, all the guarantees which the laws confer upon private property ought to revive and be re-established. It seems that the ayuntamiento of Matamoras is of opinion that though it has lost its ejidos upon the left bank of the Rio Grande, the alienation of the lands that were assigned to it ought to be esteemed likewise a matter of public convenience, even though the corresponding compensation has not been made to the proprietors. In this supposition the executive believes that it is laboring under a mistake, since it is one thing to grant common lands (*terrenos comunes*) to its municipality, even against the right of property, and another very different thing to authorize a kind of mercantile speculation in the sale of lands that have not yet been paid for (*indemnizados*). It is very just that private owners should be bound to *bound to* yield their lands to a ayuntamiento in order that it may possess ejidos; but it is in nowise just that if this matter, from any unfortunate occurrence, cannot enjoy them, it may proceed to sell what in reality does not belong to it. And still less in the case where the want of compensation makes the right of the owners revive, since the motive for which they were bound to dispossess themselves of what was lawfully their own property has ceased. The executive does not think it necessary to direct your attention to the nature of the right of property which the ayuntamiento sets up, since he is satisfied that the honorable congress will well know how to distinguish between private property and community property. Those of the second class ought to be characterized as public property, and this consideration is sufficient to foresee the danger incurred by authorizing the ayuntamiento to alienate lands situated on the left bank of the Rio Bravo. By the treaty of peace has been granted to the United States all the lands situated within the new boundaries designated for both repub-

lics, with no exception but lands owned by individuals ; since indeed the ayuntamiento of Matamoras itself acknowledges, by the alienation which it requests, *some reclamation may arise on account of its being contrary to the treaty of peace* ; and, in fact, the government of the United States may, with or without reason, reclaim the lands which the ayuntamiento claims a right to alienate, on account of considering them as public property, and not under private ownership. In this case the door will be opened to diplomatic questions, always prejudicial, and attended with unforeseen results ; and it is not prudent that the supreme authorities of Tamaulipas should give occasion for such disagreeable disputes by the grant of a permission which would only be advantageous to the municipal funds of Matamoras, when the best, the most just, and least burdensome course for the State would be, that the portion of the Ejidos situated within foreign territory should return to the private ownership of its original proprietors, on account of those latter not having been indemnified up to the present time, and consequently the constitutional condition upon which the expropriation was made being wanting. The State in this way will be freed from the responsibility of indemnifying the proprietors, and will contribute, on its part, to consolidate and secure peace between two nations which have terminated their differences by means of a solemn treaty, which both ought inviolably to respect. On account of all these considerations the executive concludes by submitting, by way of initiative to your approbation, the following resolution : The proprietors whose lands were taken for the Ejidos of the ayuntamiento of Matamoras, not having been indemnified up to the present time, and this latter corporation not being able to sell nor possess municipal property (*bienes comunales*) within foreign territory, the lands which the original owners were bound to cede, situated on the left bank of the Rio Bravo, shall return to such owners by right of reversion, the lessees (*arrendatarios*) not having been able to have prescribed them, in consequence of their possession having been precarious (*precaria*) in the name of the ayuntamiento who granted them on lease ; the State being consequently free from the responsibility which rested on it to make the corresponding compensation. Your honors will be pleased to accept the assurances of my esteem and distinguished consideration. God and liberty.

City of Victoria, seventeenth of October, one thousand eight hundred and forty-eight.

JESUS CARDENAS,
Doctor RAMON F. VALDEZ.

To the Secretaries of the honorable Congress of the State.

This is a faithful copy of the original, which is included in the proceedings placed among the archives of this office of the secretary, from which it is copied by order of his excellency the governor, and at the request of the interested party, on this sheet of paper of the fifth seal, this the twenty-eighth day of February, one thousand eight hundred and forty-nine ; the citizens Andres Guerrero, Francisco de

P. Fernandez, and Darió Balandrano, here resident and present, being witnesses.

For want of a Secretary,

RUFINO RODRIGUEZ,
Chief Clerk.

The undersigned certify that Don Rufino Rodriguez, by whom the foregoing document appears authorized, is chief clerk in the secretary's office of the government of this State, and that at the present time he is discharging the duties of secretary, and that on this account entire faith and credence has been, and is now, given to whatever he authorizes; and that this may appear, we give the present certificate in the city of Victoria of Tamaulipas, on the first day of March, one thousand eight hundred and forty-nine.

ANT'O JIM'Z VALDEZ,
Not. Pub.

CIP'O GUERRERO,
Not. Pub.

Translation.

J.

Your Excellency: The committee that this Ayuntamiento appointed to collect data and report the form of the answer which your excellency desires in the foregoing supreme decree, presented in the ordinary session on yesterday the following report: "Very illustrious Ayuntamiento. Don Juan Treanor, representing his father-in-law, Don Rafael Garcia Cavazos, presented to the government of the State, on the 7th of the present month, a petition asking for protection, as he says, against the proceedings that your Honorable body is taking to the prejudice of the interests of his principal, in violation of the constitution and laws and to the injury of truth, in attempting to dispose of certain lands as *proprios*, which are the exclusive property of the party whom he represents, under the pretext, undoubtedly, that these lands may be considered Ejidos. The executive, in his order of the same date, ordered the petition to be communicated to your Honorable body that you might report to him about its subject, and that, meanwhile, the alienation of the land referred to should be suspended, and your honorable body has been pleased, in order to comply with the order of the government above mentioned, to appoint the undersigned as a committee to furnish a report upon the subject, which duty we now fulfil with truth and sincerity. From the time that this settlement was raised from its humble name of Congregation del Refugio to the rank of the town, and afterwards the City of Matamoros, by the decree of the Honorable Congress of this State, its corresponding Ejidos were assigned and granted to it, as to all the places of its class; and, though it is an undoubted fact that the said Ejidos were not previously paid for, (no se indemnizaron previamente,) as the constitution and the laws provide, the Illustrious Corporation did not any the less on this account enter into the possession of them, as well because this was proper for the interests of the community as because

the Supreme Government of the State expressly so decreed, leaving to the individuals who believed they had a right to the lands that had been granted as Ejidos to this city, a free right to apply to the government itself to establish it and obtain the corresponding compensation for them. If the parties interested have not applied to the government, notwithstanding having been cited for this purpose, the fault is theirs, and it can only injure them and not the Illustrious Ayuntamiento that has so long been in quiet and peaceable possession, giving *labors* even to the very persons who call themselves the owners of them, in consequence of their having denounced and applied for them in due form. Not a single instance can be cited in which the right which the Illustrious Ayuntamiento has, and has always exercised, to grant all the vacant lands within the limits of their Ejidos, which consist of four square leagues, one upon each cardinal point [por cada rumbo ;] it has been disputed or not recognized by any individual, so that even supposing that Don Juan Treanor, or rather his father-in-law, has a right to any part of the Ejidos granted to this city, he cannot on that account embarrass what the Illustrious Ayuntamiento incontestably possesses as belonging to its Ejidos without having recourse to the government to establish, by his title deeds, what part has been taken from him for Ejidos in order to be indemnified agreeably to the laws. In respect to the alienation of the Ejidos, of which Don Juan Treanor also complains, all that has been done upon this point is that a proposition having been made by a private citizen to purchase the part of the Ejidos situated on the other side of the Rio Bravo, your honorable body requested the opinion of the executive whether it could make the said sale under the idea that the Illustrious Ayuntamiento would always meet with difficulties in retaining possession of it, and that the most suitable course would be to see it in order to prevent difficulties and questions that sometimes might be dangerous on account of their arising between nation and nation. For these reasons, and others that cannot escape the penetration of your Honorable body, the committee is of opinion that in returning the answer that the Supreme Government of the State requests as to the subject of the petition presented by Don Juan Treanor, it would be proper to state: First. That the Illustrious Ayuntamiento of this city has always been in quiet and peaceable possession of the lands that have been granted to them as Ejidos. Second. That the individuals who consider that they have a right to these lands have always had a free right of action to have recourse to the Government, and they have been cited to appear to establish the portion of the lands that have been taken from them for Ejidos in order to be duly indemnified. Third. That the sale of the portion of the Ejidos situated on the other side of the Rio Bravo, or in Texas, which has been proposed by the Illustrious Corporation, is not only proper but even necessary, on account of the many reasons which are obvious, and that his Excellency will be pleased to consent to it notwithstanding the application of Señor Treanor and others that may be made with the same intention. Council Chamber of the Illustrious Ayuntamiento of Matamoras, September 25, 1848. Ch'les J. Galbert. B'me Passmant. And the three points with which concludes having been approved by the cor-

poration, I have the honor to send your excellency a copy of the whole, thus fulfilling the duty imposed upon me. Municipal Hall of the Illustrious Ayuntamiento of Matamoras, September 26th, 1848. ANDRES DE SALDANA, President in turn. JOAQUIN ARGUELLES, Secretary.

This is a faithful copy of the original, which is included in the proceedings placed among the archives of this office of the Secretary, from which it is copied by order of his excellency the governor, and at the request of the interested party, on this sheet of paper, of the fifth seal. This the twenty-eighth day of February, one thousand eight hundred and forty-nine. The citizens Andres Guerrero, Francisco de Paula Fernandez, and Dario Balandrano, here resident and present, being witnesses.

For want of a Secretary,
RUFINO RODRIGUEZ,
Chief Clerk.

The undersigned certify that Rufino Rodriguez, by whom the foregoing document appears authorized, is Chief Clerk in the Secretary's office of the Government of this State, and that at the present time he is discharging the duties of Secretary, and that on this account entire faith and credence has been and is now given to whatever he authorizes. And that this may appear we give the present certificate in the City of Victoria, of Tamaulipas, on the first of March, one thousand eight hundred and forty-nine. ANT'O JIM'Z VALDEZ, Not. Pub. CIP0. GUERRERO, Not. Pub.

Translation.

K. SIR: The committee of executive affairs has applied itself, with all the attention that the case requires, to the examination of the documents which the governor encloses in his communication relative to the question of the lands granted for Ejidos to the ayuntamiento of Matamoras, on the left bank of the Rio Bravo, for the alienation whereof the said corporation prays that it may be authorized, in consideration of its being impossible to continue in possession of them on account of their remaining within the line which, by the treaty of peace made with the United States of the North, has been definitely fixed as the boundary of our frontier. This matter, which, by its nature and circumstances, appeared quite complicated and difficult, has been placed by the executive under its true point of view, by examining it under the two principal aspects which it presents, and proposing an equitable resolution conformable to the principles of justice and public convenience. In fact, sir, nothing can be more in conformity with the precepts of our fundamental law than the reclamation of the primitive proprietors of the lands which have been taken for Ejidos. The compensation, which, in such cases, ought to have been made previously, has never been made, and the want of this indispensable requisite completely destroys the reasons which the ayuntamiento of Matamoras alleges in support of its claim. It is evident that the right of property which it invokes has never been perfected, since the privilege which it enjoyed to oblige others to cede it. Their property

was not absolute, but conditional ; and if the proprietors could be compelled to relinquish for the public benefit what belonged to them by a just title, they have likewise a legal right to be duly compensated. Setting out with this principle, and paying attention to the fact that at the present time the ayuntamiento cannot enjoy the privilege of possessing Ejidos on the left bank of the Bravo, even by making use of the right of expropriation, it is indisputable that the original owners may justly claim not only to be indemnified, but to recover their right of dominion over what they yielded for the public benefit. Their claim would be limited to the corresponding compensation, if the ayuntamiento could continue in the possession of the land ceded ; but this being impossible, as the corporation itself states, the right of the original proprietors is not now restricted to a compliance with the constitutional requirement, but is extended to recovery by right of reversion of what they relinquished in obedience to the law, which, with respect to them, was not executed in all its parts, since they were not indemnified according to the terms which it provides. The alienation that the ayuntamiento claims to make can under no respect be considered as a public benefit, since the lands will not then be profitable to the community, but will pass into private property. And is it not more just and equitable that the original owners should recover a property which belonged to them, and for which they were not compensated, than that it should pass even by title of sale to others, who, besides, propose to speculate in this acquisition? Let it not be said that the addition to the municipal funds of Matamoras accruing from the price of the sale must always be considered as of public benefit. No, sir ; the right of expropriation has another and more noble origin. Its object is not to increase the receipts of the public revenues, but to provide for the well being of the community. If it were otherwise, it must be maintained that every government might resort to private property in order to alienate it, and with its value increase and enrich the public treasury. But this committee think that this is so great an absurdity that it does not deserve even the honor of an attack. The other aspect that the business presents is the conduct and course of action that the government of the United States of the north might adopt in case that the petition that the ayuntamiento of Matamoras solicits was granted to it. It is very probable that it would then be claimed that the lands alienated by the said corporation, on the other side of the Bravo, formed a portion of the territory ceded by virtue of the treaty of peace. It would be said that nothing but private property being excepted, that which belongs to a municipal body must be considered as public property, for the reason that corporations of this class cannot enjoy Ejidos within foreign territory, nor sell what under a certain aspect cannot be assimilated with property under private ownership. This would give occasion, as the governor very well observes, to reclamations and controversies that ought always to be avoided, on account of the incalculable consequences which they produce, complicating international relations ; and nothing is more proper and just at the same time than to attempt to avoid this evil by means of a provision which conciliates the right of the proprietors with the obligation by which the State is bound, by

returning to the former their property, and by freeing the latter from the responsibility of indemnifying them. On account of all that has been stated, and in view of the powerful reasons assigned by the executive, the committee concludes by submitting to the approbation of the honorable Congress the resolution which the former proposes, by way of initiative, under the same terms in which it is considered. It being provided by the thirteenth article of the former constitution of the State, and by the second part of the 71st article of the present constitution, that in no case can expropriation be made without previous compensation, [indemnizacion,] and this not having been made as to the Ejidos situated on the left bank of the Bravo, the ayuntamiento of Matamoras has not acquired a right of property in that portion, and, consequently, its former owners preserve it. Committee room, October 16, 1848. VARGAS, GARZA, FLOREZ.

This is a faithful copy of the original, which is included in the proceedings placed among the archives of this office of the secretary, from which it is copied by order of his excellency the governor, and at the request of the interested party, on this sheet of paper of the fifth seal, this the twenty-eighth day of February, one thousand eight hundred and forty-nine. The citizens Andres Guerrero, Francisco de P. Fernandez, and Dario Balandrano, here resident and present, being witnesses.

For want of Secretary,

RUFINO RODRIGUEZ,
Chief Clerk.

The undersigned certify that Don Rufino Rodriguez, by whom the foregoing document appears authorized, is chief clerk in the secretary's office of the government of this State; and that, at the present time, he is discharging the duties of secretary; and that, on this account, entire faith and credence has been and is now given to whatever he authorizes; and that this may appear, we give the present certificate, in the city of Victoria of Tamaulipas, on the first of March, one thousand eight hundred and forty-nine.

ANT'O JIM'Z VALDEZ, *Not. Pub.*
CIP'O GUERRERO, *Not. Pub.*

3.

Documents marked AT, BS, proved by Arguelles.

The following document was offered in evidence by the complainants at the hearing, and objected to by the defendants as not competent evidence, and not sufficiently proved; which objections were overruled by the court, and the same was read in evidence by the complainants:

Translation.

AT. Executive of the State of Tamaulipas. In consideration of the estimable qualities which adorn you, and the government being

satisfied with your merits and services, it has been pleased to appoint you, and you are appointed, chief clerk in the office of secretary of government, and, in consequence, you will be pleased to appear on this day to take the oath prescribed, with the understanding that you will continue to enjoy the salary of chief of the section of war, which office you now hold. I assure you of my special consideration. God and liberty. City of Victoria, April 23, 1849. Francisco Vital Fernandez, Andres Guerrero, second clerk to the chief clerk, Don Rufino Rodriguez.

This is a copy. City of Victoria, November 15, 1849.

ANDRES GUERRERO,
Second Clerk.

I, Rufino Rodriguez, secretary of the government of the State of Tamaulipas, certify that the preceding copy is faithfully and legally taken from the original, which exists in the office under my charge, and also that the signature of the second clerk, Don Andres Guerrero, is that which he uses and is accustomed to employ in all his public acts.

RUF'O RODRIGUEZ, *Secretary.*

CITY OF VICTORIA, *November 15, 1849.*

The following document was offered in evidence by complainants, and objected to by defendants as not competent evidence, and not sufficiently proved; which objection was overruled by the court, and the same was read in evidence by complainants:

Translation.

BS. Executive of the State of Tamaulipas. Being satisfied with the intelligence and estimable qualities which adorn your honor, I have thought best to appoint you Secretary of State of the government. As I do not doubt you will be ready to consecrate your services to the State in this office, I notify you that you will be pleased, at three o'clock this afternoon, to take possession of it in the form established by the laws. I assure your honor of my special consideration. God and Liberty. City of Victoria, June 6, 1849. Jesus Cardenas. Andres Guerrero, second clerk.—To the Secretary of State of the government, D'n Rufino Rodriguez.

This is a copy. City of Victoria, November 15, 1849.

ANDRES GUERRERO,
Second Clerk.

I, Rufino Rodriguez, secretary of the government of the State of Tamaulipas, certify that the preceding copy is faithfully and legally taken from the original, which exists in the archives under my charge; and also, that the signature of the second clerk, Don Andres Guerrero, is that which he uses and is accustomed to employ in all his official acts. City of Victoria, November 15, 1856.

RUF'O RODRIGUEZ, *Secretary.*

This document was offered by complainants in connexion with the answer of Rufino Rodriguez to third interrogatory, and objected to on behalf of the defendants, that it is not sufficiently proved ; that it is not sworn to have been examined or compared with the original ; that a translation is not shown nor filed. Objections overruled, and testimony read in evidence.

JAMES LOVE, *Clerk.*

Translation.

Documents marked which are referred to in the deposition of Don Rufino Rodriguez and Don Antonio Javieres Valdez, in relation to the civil suit which Don Rafael Garcia Cavazos and others are prosecuting in the district court of the United States for the district of Texas, against Simon Mussina, Charles Stillman, and others, as to the property of lands.

Parts of documents marked *N, O.*

On the outside cover.

Republic of Mexico,
City of Victoria.

State of Tamaulipas,
1849.

Court of the first instance of the department of the centre.

Documents marked *N, O*, which are referred to first in the deposition of Don Rufino Rodriguez, in relation to the two civil suits which Don Rafael Garcia Cavazos and others are prosecuting, in the district court of the United States for the district of Texas, against Simon Mussina, Charles Stillman, and others, as to the property of lands.

Political constitution of the free State of Tamaulipas enacted by its constituent congress of the 6th of May, 1825 ; second edition ordered by the honorable Congress.

City of Victoria government press, directed by Juan Antonio Aguirre, 1831.

Enrique Camillo Suarez, vice governor of the free State of Tamaulipas, to all its inhabitants. Know ye: That the constituent congress of the same State has decreed and enacted for the internal government of this State as follows :

Political constitution of the free State of Tamaulipas.

The constituent congress of the federated State of Tamaulipas lawfully convened, in the name of the free people of the same State which it represents, in the exercise of the powers which this people has confided to it, and in the execution of the object of its creation, invoking for success the Supreme author and legislator of severity, establishes, enacts, and decrees the following political constitution for the internal government of this State.

General provisions.

Art. 1. The State of Tamaulipas is the reunion of all its inhabitants.

Art. 2. It is sovereign, free, and independent of the other Mexican States, and of every other nation.

Art. 3. The State retains its liberty and rights as to what appertains to its internal administration and government, and delegates them to the general congress of the Mexican federation in matters relating to the same federation.

Art. 4. The sovereignty of the State naturally remains in the individuals who compose it, but they will only exercise these acts of it designated in this constitution, and in the form which it provides.

Art. 5. The territory of the State comprises what that formerly called the province of New Santander contained. The boundaries of the State shall be fixed as soon as may be by a constitutional law.

Art. 6. The State shall be divided into eleven divisions and three departments. A law, which may be varied as circumstances may require, shall designate the places which each department and each division may contain, and their chief towns.

Art. 9. Every man who lives in the State, even as a transient person, enjoys the imprescriptible rights of liberty, secrecy, property, and equality.

Art. 10. The State guarantees these rights; it also guarantees the well regulated liberty of the press, and forever prohibits slavery in all its territory.

Art. 11. In consequence, every inhabitant of the State has the right to ask of the legislature the corrections of the violations which he observes, and to obtain the removal of the obstacles which prevent the exercise of his rights, provided it is done peaceably and with decency, such redress cannot be deferred or refused arbitrarily.

Art. 12. All men ought also to find a remedy in a recourse to the laws of the State against every act of injury or injustice which may be done to their persons or property, and in conformity with these laws justice must be perfectly administered to them, and without further delay than that which the laws prescribe.

Art. 13. Neither the Congress nor any other authority shall be able to take the property, even that of the least importance, of any private individual. When it shall become necessary for an object of a common recognized utility to take the property of any person, he shall first be compensated (*ecrá antes indemnizado*) upon the examination of arbiters (*hombres buenos*) appointed by the government of the State, and the interested party.

Art. 34. In conformity with the form of government adopted, the supreme power of the State is divided for its exercise into legislative, executive, and judicial.

Art. 35. Neither these three powers, nor any two of them, can be united in one person or corporation; and the legislative can never be exercised by a single individual.

Art. 36. The legislative power shall be vested in a congress composed of deputies elected by the popular vote.

Art. 37. The executive power shall be vested in a citizen likewise elected by the popular vote, who shall be styled governor of the State.

Art. 38. The judicial power shall be vested in the tribunals and judges which this constitution establishes.

Fourth Section.

Of the attributes of Congress and its permanent committee.

Art. 92. The attributes of Congress are:—

First. To decree, interpret, explain, amend, and repeal the laws relative to the internal government of the State in all its departments.

Art. 114. The governor shall continue in the exercise of his office for four years, and cannot again be elected except at the interval of four years after having ceased to exercise his functions.

Art. 115. The powers of the governor are:—

Fifth. To provide for the execution of the constitution, laws, and decrees of the confederacy, and of the constitution, laws, and decrees of the Congress of the State, and to give the suitable decrees and orders for their execution.

Seventh. To provide for the prompt and full administration of justice by the tribunals and judges of the State, and for the execution of their judgments.

Art. 116. The Secretary of the State (al secretario del despacho) shall sign all the orders and decrees of the governor, and without this requisite they shall not be obeyed.

Art. 117. In order to promulgate the laws and decrees of the Congress, the Governor shall use this formula: The Governor of the State of Tamaulipas to all its inhabitants. Know ye: That the Congress of the same State has decreed the following [here the literal text of the law or decree.] Wherefore I order it to be printed, published, and circulated, and to have its due execution.

Section Third.

Of the Council of the Executive of the State.

Art. 124. There shall be in the State a Council of the Executive, composed of five principal members and two substitutes.

Art. 130. The powers of the Council of the Executive are—

First. To watch over the execution of the constitution and the laws, and to report to the Congress the violations which it observes.

Second. To advise the Governor in the cases in which he requests it.

Art. 144. The governor, vice-governor and members of the council of the executive who may be elected, shall enter upon their offices on the first day of October immediately succeeding the election.

Section Fifth.

Of the Secretary of State of the Government.

Art. 146. There shall be a Secretary in the State, who shall be styled Secretary of State of the government of the State (secretario del despacho del gobierno del estado,) and all the affairs of the Su-

preme Government of the State shall be under his charge, whatever may be their description.

Section Seventh.

Of the Ayuntamiento and Alcaldes.

Art. 159. For the internal government of the State there shall be ayuntamientos chosen by the popular vote, which shall be composed of the Alcalde or Alcaldes, and Regidors which the law may designate, and one Syndic Procurator.

TITLE VII.

Single Section.

Of the observance of the Constitution.

Art. 238. Every inhabitant of the State is bound to comply with and observe the Constitution in all its parts.

Art. 239. The public officers of the State of every description, upon entering upon their public offices, shall take the oath to keep the general constitution of the Mexican confederacy, that of the State, and to discharge faithfully their duties. If they belong to the number who are to exercise authority, they are to add the oath to cause both constitutions to be observed.

Art. 240. Neither the Congress or any other authority can dispense with the observance of the constitution in any of its articles.

Art. 247. By the present constitution all and each one of the former laws, decrees, or orders, whether general or special, contrary to the same constitution, are repealed, though they may have been promulgated as constitutional.

Given in the city of Victoria, on the 6th of May, in the year of our Lord one thousand eight hundred and twenty-five, the fifth of Independence, the fourth of Liberty, the third of the Confederacy, and the second of the installation of the Congress of this State.—JOSE IGNACIO GIL, Deputy President—JOSE MIGUEL DE LA GARZA GARCIA, Deputy Vice President—JOSE RAFAEL BENAVIDES—JUAN ECHEANDIA—JUAN BAUTISTA DE LA GARZA—FELIPE DE SAYES—JOSE FELICIANO ORTIZ, Deputy Secretary—JUAN NEPOMUCENO DE LA BARREDA, Deputy Secretary.

Wherefore, I order it to be printed, published and circulated, and to have its due execution.

Given in the City of Victoria, on the 7th of May, 1825. The second of the installation of this State.

ENRIQUE CAMILLO SUAREZ.

By order of his Excellency,

JOSÉ ANTONIO FERNANDEZ,
Secretary.

This document, marked *P*, was offered in evidence by complainants at the hearing, in connexion with the answer of Rufino Rodrigues to the fifth interrogatory, propounded to him and objected to by defend-

ants, on the ground that it is not sufficiently proved ; that it is not sworn to have been examined or compared with the original ; that no translation has been filed by the complainants.

JAMES LOVE,
Clerk.

6.

Document marked U V, proved by Hale and Rosignol.

This document was offered in evidence by the complainants at the hearing, in connexion with a copy of the same document marked O, and referred to in the deposition of Perez and Argüelles, read in evidence by the defendants, and in connexion with the deposition of William G. Hale and Charles Rosignol ; and it was objected to by defendants that the testimony proving the same was incompetent at the hearing ; that Mr. Hale's testimony was incompetent on account of his interest in this cause ; that the testimony of Rosignol is insufficient to prove the genuineness of the signature of Juan Prado ; that the document is not sufficiently proved by the testimony of said witnesses ; that it is incompetent ; that it being a proceeding after the declaration of independence of Texas, it was void ; that the same is not attached to any deposition, nor sufficiently identified. Objections overruled and document read in evidence by the complainants.

JAMES LOVE,
Clerk.

[Translation.]

On the outside cover.

Copy of the proceedings of the survey of the Ejidos, Matamoras.

Office of the Secretary of the Illustrious Ayuntamiento.

There is no sealed paper of the corresponding seal in the office of the department.

Town Hall of the City and Port of Matamoras. The governor of the department in a communication of the twenty-second of May, 1835, said to the Illustrious Ayuntamiento, of this city, what follows : Yesterday the council said to this government what follows : Your Excellency. The council advises, understanding this petition of the Ayuntamiento of Matamoras as it ought to be understood, as referring alone to the concession of lands for Ejidos, and not comprising the site or lands on which the town is built, that your excellency will be pleased to order the authorities to proceed to the designation of the Ejidos ; that for this purpose your excellency will appoint a commissioner who may intervene in all the proceedings ; that your excellency will appoint, in accordance with the Ayuntamiento, and the interested parties, a surveyor to survey the Ejidos, mark out and designate the boundaries ; but that it must first be ascertained by the

Ayuntamiento, if there is any private property in these lands, or their owner or owners must be indemnified for them agreeably to the laws; that upon the proceedings having been concluded, a report must be made to this Supreme Government for the provision which may be made, and that the costs for the assignment of the Ejidos must be paid from the municipal funds of Matamoras; and, if the amount in the Treasury is not sufficient, the Ayuntamiento shall adopt means and propose them to the government, and, coinciding therewith, I communicate it to your honor in order that, after summoning one of the surveyors named, you will be pleased to proceed to the designation of the Ejidos upon the terms expressed, and with the intervention of the Syndic Procurator of your illustrious Corporation, who is the person whom the government appoints upon its part to intervene in these proceedings, until the preliminary report thereof is terminated, which your Honor is to remit to it. And this corporation sends this copy to you, that in view thereof, you may order its execution, causing the survey and designation of the Ejidos in this city to be carried into effect, on the same terms that are provided by the superior authority, since this Ayuntamiento has so ordered it in the ordinary session, on the fifth of the current month, at the instance of various citizens, giving notice previously to the interested parties and adjoining proprietors. God and Liberty. Matamoras, June 15, 1841. Francisco Valdés, President. Marcos Galindo, Secretary. To the third Constitutional Alcalde, Don Juan Longoria Lerna.

City of Matamoras, June 15th, 1841. Let what is ordered by the superior authority in the communication inserted in the preceding be complied with, observed, and executed, and in consequence thereof, in order to proceed to the survey and demarcation of the Ejidos on the same terms as ordered: Let the parties interested in the lands that they comprise be cited to appear, and say if they agree to the surveyor who is to make the survey, who is Don William O'Docharte. I, the citizen Juan Longoria y Lerna, have so provided, ordered, and signed, with my assisting witnesses, as examining judge (por receptor.) I certify. Juan Longoria y Lerna. Assisting witness, Melchor Fonseca.

On the same day, month, and year, the proper citation having been previously made, appeared in my Court, Don Marcos Galindo, general Attorney in fact of Dona Rita Girón and Don José Maria of the same surname, and I notified him in his proper person, as I certify, of the foregoing order, and having heard it, he says that he hears it, acknowledges himself to have been cited to the making of the survey of the Ejidos of this city, and agrees to the appointment of a surveyor made in the person of Don William de O'Docharte, and signs, as I certify. Longoria y Lerna. M. Galindo. Assisting witness, Melchor Fonseca.

On the same date, the proper citation having been previously made, Don Juan Tigerina appeared, and I notified him in his proper person of the foregoing order, and having heard it, he said that he hears it, acknowledges himself to have been cited, and agrees to the appointment of a surveyor, and he signed. I certify. Longoria y Lerna. Juan José Tigerina. Assisting witness, Melchor Fonseca.

In the same city, on the twenty-first day of said month and year, citation having been previously made, appeared Don Manuel de la Garza, and I notified him also in his proper person, as I certify, and having well understood it, he said that he hears it, and acknowledges himself to have been cited, and agrees to the appointment of a surveyor, and signed. I certify. Longoria y Lerna. Manuel de la Garza. Assisting witness, Melchor Fonseca.

In the aforesaid city, and on the twenty-second day of the said month, Present Don Macedonio Capistran, representative of the Señora Doña Margarita de la Garza, his mother, I notified him of the preceding order, and understanding it, he said that he acknowledges himself to have been cited to be present at the survey, and agreed to the appointment of a surveyor, and signed. Of which I certify. Longoria y Lerna. Macedonio Capistran. Assisting witness, Melchor Fonseca.

On the same date, present Don Vicente Heinojosa, in his proper person, as I certify, I notified him also and having understood it, he said that he hears it, acknowledges himself to be cited, and agrees to the appointment of a surveyor, and signed. I certify. Longoria y Lerna. Vicente Heinojosa. Assisting witness, Melchor Fonseca.

Immediately thereafter, appeared Don Rafael Garcia Cavazos, and I gave him in his proper person, as I certify, the same notification, and having heard it, he said that he hears it, acknowledges himself as cited, and agrees to the appointment of a surveyor, and he signs. I certify. Longoria y Lerna. Rafael Garcia Cavazos. Assisting witness, Melchor Fonseca.

Thereafter appeared the Senor Don Rafael Gonzales, and I gave him in his proper person, as I certify, the same notification, and having heard it, he said that he hears it, acknowledges himself as cited, and agrees to the appointment of a surveyor, and does not sign, because he says he cannot. I certify. Longoria y Lerna. Assisting witness, Melchor Fonseca.

In the aforesaid city, on the twenty-eighth day of the said month and year, I notified Don Rafael Garcia Heinojosa, as guardian of the minors of Don Rafael Cisernos, of the preceding order, and having heard it, he said that he hears it, acknowledges himself as cited, and agrees to the appointment of a surveyor, and he signs. I certify. Longoria y Lerna. Rafael Garcia. Assisting witness, Melchor Fonseca.

In the said city, on the thirtieth day of the said month and year, I also notified Don Macedonio Capistran, who presented himself as the representative of Don Ventura Garza, and understanding it, he said that he hears it, acknowledges himself to be cited, and agrees to the appointment of a surveyor, and he signs. Of which I certify. Longoria y Lerna. Macedonio Capistran. Assisting witness, Melchor Fonseca.

At the same date, appeared Arcadio Salinas, heir of the estate of Don Rafael Cisernos, whom I also notified, and understanding it, he said that he hears it, acknowledges himself to be cited, and agrees to the appointment of a surveyor, and he signed. Of which I certify.

Longoria y Lerna. Arcadio Salinas. Assisting witness, Melchor Fonseca.

Thereafter I notified Don Juan de la Garza of the preceding order, who represents Dona Romana de la Garza, and understanding it, he said that he hears it, acknowledges himself to be cited, and agrees to the appointment of a surveyor, and he signs, which I certify. Longoria y Lerna. Juan Longoria y Garza. Assisting witness, Melchor Fonseca.

Thereafter appeared, the proper citations having been previously made, the Senores Don Ignacio Villareal, Don Marcos Garcia, representing their wives, Dona Josefa and Dona Maria de la Garza, and in their proper person, as I certify. I also notified them, and having heard it, they said that they acknowledged themselves to be cited, and agree to the appointment of a surveyor, and they signed. I certify. Longoria y Lerna. Ignacio Villareal. Marcos Garcia. Assisting witness, Melchor Fonseca.

Immediately thereafter appeared in court the Senor Don Domingo de la Garza, and in his person, *and in his person*, as I certify. I also notified him, and understanding it, he said that he hears it, and acknowledges himself to be cited, and agrees to the appointment of a surveyor, and he signed. I certify. Longoria y Lerna. José Domingo de la Garza. Assisting witness, Melchor Fonseca.

On the same day, month, and year, I also notified the Senor Don Calixto Portilla, and understanding it, he said that he hears, acknowledges himself to be cited, and agrees to the appointment of a surveyor, and he signed, which I certify. Longoria y Lerna. Calixto Portilla. Assisting witness, Melchor Fonseca.

Thereafter, a citation having been previously made, appeared in the court Don William O'Docharty, official surveyor, and I notified him in his proper person, as I certify, of the preceding order, and the appointment which has been made by it of him to execute the survey of lands which the Ejidos of this city comprises, by the agreement and consent of the interested parties, and having heard it, he says that he accepted and did accept it, swearing by God our Lord, and the sign of the cross, that he would discharge his duty well and faithfully according to his understanding, and he signs with me and my assisting witnesses. I certify. Longoria y Lerna. William O'Docharty.

Thereafter, the proclamation having been previously made, appeared in the Court the Syndic Procurator of this Illustrious Ayuntamiento, Don Manuel de Porras, and as such, in his proper person, I informed him of the decree on the third page, under date of the 15th of the month last past, and the official communication to which it refers as to the part relating to him; and having heard it, he said that in due conformity with the appointment of commissioner to intervene in the survey and demarcation of the lands of the Ejidos of this city, of which the supreme government of this department has been pleased to honor me, he accepted it and did accept it, and would, in fact, appear whenever he was cited by the judge who has cognizance of the said survey; this he gave as his reply, and signed

with me and my assisting witnesses. Longoria y Lerna. Manuel de Porras.

Matamoras, July 21, 1841. All the notifications mentioned in the order upon the third leaf, under date of the 15th of the last month, having been made, and two suitable individuals having to be present at this survey in the capacity of inspectors and appraisers intervening in it, I appoint for this purpose Don Domingo Hernandez and Don Leonardo Espinosa, who are to be notified thereof, that they may accept and swear to the exact and faithful discharge of their office. I, the citizen Juan Longoria y Lerna, third constitutional Alcalde, so order and sign with my assisting witnesses, as I certify. J. Longoria y Lerna.

Thereafter, the due citation having been previously made, Don Domingo Hernandez and Don Leonardo Espinosa appeared, and I notified them in their proper person, as I certify, of the preceding order; and having heard it, they said that they hear it, and they accepted, swearing by God our Lord, and the sign of the holy cross, to discharge their duties well and faithfully in the business entrusted to them, according to the best of their understanding, and they signed with me and my assisting witnesses, as I certify. Longoria y Lerna. Domingo Hernandez. Leonardo Espinosa.

Matamoras, July 22d, 1841. As a commencement is to be made to-morrow of the survey and demarcation of the land of the Ejidos of this city, let the adjoining proprietors and owners on the part where it is to be made be cited by means of notes. I, the citizen Juan Longoria y Lerna, third constitutional alcalde, have so ordered and signed with my assisting witnesses. I certify. Longoria y Lerna. On the same date as is ordered I certify. Longoria y Lerna.

This is a copy, conforming to its original from which it was ordered to be copied by resolution of the illustrious ayuntamiento of the 20th of April last, at the request of Don Juan Treanor, as the representative of Don Rafael Garcia Cavazos, on seven legal leaves of common paper, there being none of the corresponding seal in the office of the administration in this city. Matamoras, May 2d, 1850.

JUAN PRADO,

Secretary ad interim.

I, the citizen Juan Prado, secretary *ad interim* of the illustrious ayuntamiento of this city, certify: That there is not among the archives of the illustrious corporation under my charge any other proceedings upon the executions of the survey of the Ejidos of this city, besides the preceding, composed of seven legal leaves. And, at the request of Don Juan Treanor, I give the present certificate, which I sign in this aforesaid city, on the thirtieth day of the month of May, one thousand eight hundred and fifty. I certify.

JUAN PRADO,

Secretary ad interim.

Translation.

1849.

*Copy of the dispatch concerning the exidos admitted in the year 1841.
Matamoras.*

Council Chamber of the City and Port of Matamoras. The government of this department in office the 22d day of May, 1835, communicated to the illustrious ayuntamiento of this city the following: "This government yesterday received the following advice: Most Excellent Sir: Concerning the advice, which being understood according to the solicitude of the ayuntamiento of Matamoras as applied solely to the concession of lands for Ejidos, and not to include any lands which is comprised within the actual boundary of the town. Your excellency will please authorize to proceed to the survey of the 'exidos,' for which your excellency will appoint one commissioner to attend to the business in all its parts; and, with the approval of the ayuntamiento and those interested, your excellency will appoint a surveyor to survey the Ejidos and to place the landmarks; previous to which being done, however, you will inform yourself, through the ayuntamiento, if to any of these lands there are private owners, who should be indemnified for the same according to law: having concluded this, you will render an account of the same to the superior court for their action upon it: the costs for the assignment of the exidos will be paid from the municipal funds of Matamoras; and, should the existing funds be insufficient, the ayuntamiento will deliberate upon the matter, and propose accordingly to the government." In conformity with which, I inform your honors that, by appointing one of the regular surveyors, he will proceed to the demarcation of exidos from the lands designated, with the assistance of the Syndic attorney of that illustrious corporation, who is the person commissioned by the government to assist in this business until finished, according to the instructions contained in the despatch which your honors should transmit to him. And this corporation sends you this copy, that, upon receipt of the same, you may act accordingly, carrying into effect the survey of exidos in this city within the limits authorized. Such was the decree of this ayuntamiento, in ordinary session of the 5th instant, done at the suggestion of various citizens, and having previously cited to appear those interested in the matter. God and Liberty. Matamoras, June 15, 1841. Francisco Valdez, President. M. Galindo, Secretary. To Juan Langoria Lerna, 3d Constitutional Alcalde.

City of Matamoras, June 15, 1841. Comply with and execute the wishes of the superior officers, according to the foregoing document; and in order to proceed to the survey of exidos, as commanded, you will cite those persons who are interested in the land to appear, and say if they approve the appointment of Guillermo O'Docharte, surveyor, to survey the same. I, the citizen Juan Longoria y Lerna, third constitutional alcalde, decreed, ordered, and signed my name,

with witnesses of Assistencia for the Treasurer's office. Attest : Juan Longoria y Lerna. To Melchor Fonseca.

On the same day were issued the summons in accordance with the foregoing act. Attest : Longoria y Lerna. To Melchor Fonseca.

On the same day, month, and year, according to summons, appeared before me Marcos Galindo, attorney in fact of Madame Rita Giron and José Maria, of the same name, whom I know, and to whom I give faith ; and being notified by me of the foregoing act, said, that he understood the notice, and approved of the appointment of Guillermo de O'Docharte as surveyor for the exidos ; whereupon he signed his name in my presence. Attest : Longoria y Lerna. To Melchor Fonseca. M. Galindo.

On the same day and date appeared before me, according to summons, Juan Tigerina, to whom personally I made known the antecedent act ; whereupon he said that he understood the same, and that he conforms to the appointment for surveyor, and signed his name. Attest : Longoria y Lerna, Juan José Tigerina. To Melchor Fonseca.

In the aforesaid city, on the 21st day of the said month and year, appeared before me, according to summons, Manuel de la Garza Soza, personally known to me, and in whom I have faith, and whom I notified in like manner, fully explaining the same to him ; whereupon he said that he understood it, and approved of the appointment for surveyor, and signed his name. Attest, Longoria y Lerna. Manuel de la Garza Soza. To Melchor Fonseca.

In the aforesaid city, on the twenty-second day of the said month, appeared before me Macedonio Capistran, representative of his mother, Margarita de la Garza, to whom I made known the anteceding act, and explained the same ; he said that he approved of the appointment of surveyor, and signed his name. Attest, Longoria y Lerna. Macedonio Capistran. To Melchor Fonseca.

On the same day appeared before me Vicente Hinojosa, to whom I give credit, and made known the said act, and explained the same : he said that he heard it, and approved of the nomination for surveyor, and signed his name. Attest, Longoria y Lerna. Vicente Hinojosa. To Melchor Fonseca.

In continuance personally appeared before me Rafael G. Cavazos, whom I know, and in whom I have faith, and to whom I made known the said act, and explained the same : he said that he heard me, and approved of the nomination for surveyor, and he signed his name. Attest, Longoria y Lerna. Rafael Garcia Cavazos. To Melchor Fonseca.

In continuation appeared before me Rafael Gonzales, to whom I give faith, and made known and explained said act : he said that he heard me, and approved the nomination for surveyor, but did not sign his name, not knowing how to write. Attest, Longoria y Lerna. To Melchor Fonseca.

In the aforesaid city, on the twenty-eighth day of the aforesaid month and year, I notified Rafael Garcia Hinojosa, teacher of the minors of Rafael Cisernos, of the aforesaid act, and explained the same to him : he said he heard me, approved the nomination for sur-

veyor, and signed his name. Attest, Longoria y Lerna. Rafael Garcia. To Melchor Fonseca.

In the aforesaid city, on the thirtieth day of the aforesaid month and year, I notified in the same manner Macedonio Capistran, who presented himself before me as the representative of Ventura Garza, and who said that he heard me, and approved of the nomination for surveyor, and signed his name. Attest, Longoria y Lerna. Macedonio Capistran. To Melchor Fonseca.

On the same day and date appeared before me Arcadio Salinas, heir of Rafael Ciserno, deceased, to whom I made known and explained said act: he said he heard me, and approved the appointment for surveyor, and signed his name. Attest, Longoria y Lerna. Arcadio Salinas. To Melchor Fonseca.

Immediately after I informed Juan L. y Garza, representative of Ramona de la Garza, of said act, and explained it to him: he said he heard it, and approved of the nomination for surveyor, and signed his name. Attest, Longoria y Lerna. Juan Longoria. To Melchor Fonseca.

In continuation appeared before me, according to summons, Ignacio Villareal and Marcos Garcia, representing their wives, Josefa and Ylaria de la Garza, to whom I give faith, and notified and explained the said act, and who said that they approved of said appointment for surveyor, and signed their names. Longoria y Lerna. Ignacio Villareal. Marcos Garcia. To Melchor Fonseca.

Without intermission appeared before me Don Domingo de la Garza, in whom I have faith, and whom I informed of and explained the said act: who said he heard me, and approved of the appointment for surveyor, and signed his name. Attest, Longoria y Lerna. José Domingo de la Garza. To Melchor Fonseca.

On the same day, month, and year I notified and explained in the same manner to Calista Portillo, who said that he approved of the appointment for surveyor, and signed his name. Attest, Longoria y Lerna. Calisto Portilla. To Melchor Fonseca.

In continuation appeared before me Guillermo O'Docharte, surveyor, in whom I have faith. I notified him of the anteceding act, and of his appointment to survey the lands for the Exidos of this city, by decree and in conformity with the wishes of those interested; and having explained the same to him, he said that he accepted, and he did accept the same, swearing by God our Lord and the sign of the cross to perform his duty well and faithfully, according to the best of his ability, and he signed his name with himself and those of my "asistencia." Attest, Longoria y Lerna. Guillermo O'Docharte.

Immediately following appeared before me, according to summons, the first syndic attorney of this Illustrious Ayuntamiento, Manuel de Porras, to whom personally I made known the act, on three sheets of paper, dated on the 15th of last month, and officially so that part which referred to him, and he being acquainted with the same said: That conforming strictly with the appointment as commissioner to assist in the survey and demarcation of the lands of the Ejido of this city, with which the superior government of this department had seen fit to honor him, he accepted and he did accept of the same, and

would carry into effect the same, and when it may please the judge who knows respecting the said survey. This was his answer, and he signed his name in connexion with me and those of my "asistencia." Attest, Longoria y Lerna. Manuel de Porras. Matamoras, July 21, 1841. Having executed all of the notifications which were ordered in the act of three sheets of paper, dated 15th of last month, and there being necessary to assist at this survey two fit persons, as inspectors and receivers, I appoint Domingo Hernandez and Leonardo Espinosa, whom I will notify, so that they may accept and swear their exact and faithful performance of their duty. So I command, and sign myself the citizen Juan Longoria y Lerna, 3d constitutional alcalde, with those of my "asistencia," to which I give faith. Juan Longoria y Lerna.

According to summons appeared before me Domingo Hernandez and Leonardo Espinosa, in whom I have faith, and to whom I made known the anteceding act; they understanding the same, said that they heard me, and accepted of their appointment, swearing by God and the sign of the sacred cross, to perform well and faithfully their duty assigned them, according to the best of their ability, and signed their names with me and those of my "asistencia," to which I give faith. Longoria y Lerna, Domingo Hernandez, Leonardo Espinosa. Matamoras, July 22, 1841. Having to communicate to-morrow the demarcation and surveys of the lands of the Exidos of this city, I cite, by means of instant summons, the residents of and shareholders for the portions they have to verify. So I ordered, and signed my name to as the citizen Juan Longoria y Lerna, 3d constitutional alcalde, with those of my asistencia to whom I give faith. Longoria y Lerna. Dated as ordered. Attest, Longoria y Lerna.

A true copy of the original deposited in the archives of the illustrious ayuntamiento of this city, which is in my charge, and to which I refer; and by decree of the same corporation, dated 10th of November last, and in virtue of the petition of those interested. I issued this present copy, which is written upon six useful sheets of the fourth seal, for the current biennial years. In witness whereof, I sign my name in this city of Matamoras, this 20th day of December, one thousand eight hundred and forty-nine.

JUAN PRADO.

Secretary pro tem.

No. 8.

Deposition of O' Docharty, No. 4.

[Objections.]

Objected to by defendants. 1st. It does not appear from the com's certificate that the place where the deposition was taken 100 miles from place where court is held. 2d. The same witness was examined once before in same cause by same parties. It is irrelevant, incompetent, and otherwise insufficient. The said deposition was not

taken in conformity with law, and the matters therein stated are immaterial and incompetent evidence.

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA,
District of Texas.

STATE OF TEXAS, ss:
County of Nueces.

Be it remembered, that on this the twenty-third day of October, in the year of our Lord one thousand eight hundred and forty-nine, I, Daniel Ayres, a commissioner duly appointed by the district court of the United States for the district of Texas, having and exercising the powers and jurisdiction of circuit court of the United States under and by virtue of the act of Congress entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States, passed February 20, 1812, and the act of Congress entitled an act in addition to an act entitled an act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States, passed March 1, 1817, and the act entitled an act to establish the judicial courts of the United States, passed September 24, 1789, did call and cause to be and personally appear before me at the hotel in the town of Corpus Christi, county of Nueces, and State and district aforesaid, to testify and the truth to say on the part of the plaintiffs in a certain suit now depending and undetermined in the district court of the United States for the district of Texas, and to be tried at Galveston, in the said State and district, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estefana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, Maria Angela (or de los Angeles) Garcia Safen de Tarnava, Ramon Safen, Feliciano de Tijerina, and José Manuel Prieto are defendants. William O'Docharty.

And the said William O'Docharty being of sound mind and lawful age, was by me first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth in the suit aforesaid, and thereupon I did carefully examine the said witness, and he deposed, testified, and said as follows, viz:

I am acquainted with the complainants and a majority of the defendants. I have been a practical surveyor for upwards of twenty-four years, and have understood the science theoretically for more than thirty years.

I was employed by the ayuntamiento of the city of Matamoras, in the State of Tamaulipas, to survey the land about the said city claimed by it as *egidos* I think in the year of 1840 or in 1841. They stated, when they employed me to survey for them, that there had been made for them one or more surveys, but they were not satisfied with them. They claimed from the centre of the public square in the city of Matamoras one league north, one league south, one east, and one west; that is, four square leagues. I began to make my survey in the centre of the public square. The chain bearers were Mexicans selected by the Ayuntamiento, and I could not

say whether the first survey was correct or not which I made. They objected to it on account that some labors which they had given titles to was not included within the limits of my survey. In my new survey, with my own chain bearers, there were several labors which had been previously sold and conveyed by the Ayuntamiento, was thrown out of the lines. I do not recollect the purchasers' names, except José Maria Tobar's large labor, which only a small part was included within my lines. When I presented my survey to the Ayuntamiento, they refused to receive it. They did not assign any reason for their refusal. They did not even examine it, and I believe their reasons were they did not wish to pay me for my services. I have not been paid for my survey by them, with the exception that I was imprisoned six or seven days, because I had the *audacity* to demand my fees. I did not give up my plot to them because they refused to receive it, did not even look at it, and would not pay me for it. At the time I made this survey I measured the distance from the centre of the Public Square in the City of Matamoras to the left or eastern bank of the Rio Grande, but not having any memorandum to refresh my memory, I cannot recollect the distance. At this time, Rafael Garcia Cavazos and Juan Tigerina were the reputed owners of the land on this side of the Rio Grande, opposite Matamoras. I made my survey by the true course, because I was so directed by the Ayuntamiento, it being the only Mexican survey I made by the true course.

WILLIAM O'DOCHARTY.

And I, David Ayres, the Commissioner aforesaid, do hereby certify that the reason for taking the foregoing depositions is, and the fact is, that the testimony of the witness is material and necessary in the civil cause and suit in the caption of said deposition named, and that he lives in the County of San Patricio aforesaid, more than one hundred miles from the place where the trial of the said suit is to be had, to wit, the City of Galveston, in the said State and District. I further certify that neither of the said defendants, nor any one of their Attorneys, was within one hundred miles of the place aforesaid of taking the foregoing deposition, at the time when the same was taken, and that therefore no notification of the time and place of taking the same was given to them or either of them. And I further certify that on the day before first mentioned I was attended by the said witness, and thereupon the said deposition was taken and reduced to writing by me in presence of the witness and from his statements, and after carefully reading the same to the witness, he subscribed his name thereto. I have retained the said deposition in my possession for the purpose of sealing up, directing, and, after such sealing and directing, handing the same to the Clerk of the Court for which the same was taken. And I further certify that I am not of Counsel or Attorney for either of the parties in the caption of the said deposition named, nor in any way interested in the event of said cause or suit. Witness my hand and seal the day and year above written.

DAVID AYRES, [L. S.]
U. S. Commissioner.

No. 10.

Document marked H, produced by defendants' witness.

The complainants offered to read this paper in evidence as a part of their rebutting proof at the hearing, down to the following words: "Acuerdo de sesion ordinaria del Sabado 5 de Junio de 1841;" but the Court, on the application of the defendants, Belden and Stillman, required the complainants to read the *the* whole of said paper, and the complainants thereupon read the whole of said paper, claiming the right to consider the last part of said paper after the above words as not read by them in evidence.

JAMES LOVE, *Clerk.*

CONSULATE OF THE U. S. A.,
Matamoras, Mexico.

I, Thomas W. Slemons, Consul of the United States of America for the Port of Matamoras, do hereby certify that Joaquin Arguelles, who attests the annexed document under his own proper signature, to me the said consul well known, is now, and was at the time of signing the same, a Notary Public in and for the City and Port of Matamoras, and that to all his acts as such full faith and credit are given in and out of judicature.

In testimony whereof, I hereunto subscribe my name and affix the seal of my office, this 16th day of May, 1849.

THOMAS W. SLEMONS.

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others)
vs.

CHARLES STILLMAN and others. }

Translation of the paper marked X, referred to in the deposition of Don Juan Prado.

I, the citizen Andres Trevino, Secretary ad interim of the Illustrious Ayuntamiento,

Certify: "That among the municipal ordinances of this Illustrious Corporation promulgated on the second of June, 1834, are two articles, of the following tenor:

Article 41. For the grant of a lot the party benefitted shall pay five dollars, and the same for a labor which may be given in the Egidos, with the understanding that if within six months, reckoned from the date of the donation, they do not occupy (poblaren) the lands granted to them, they shall lose the right to the favor which is conceded to them."

Article 42. "Those who have labors within the egidos shall pay, annually, in advance, at the rate of twelve reals for each twenty thou-

sand square varas which they cultivate, whatever may be the crop, as a recompense for the indulgence which they enjoy."

And at the request of the party interested I issue these presents to him in Matamoras on the 11th of May, 1849.

ANDRES TREVINO,
Secretary ad interim.

Fees without the paper. Gratis.

I certify the foregoing to be a correct translation of the original, made in accordance with an order of the Court.

WILLIAM G. HALE.

No. 12.

Deposition of D. Manuel Rijon, taken for defendants, Belden and Stillman.

[Objections.]

All read in evidence by the complainants at the hearing as a part of their rebutting testimony. That part of said deposition which proves the law of Mexico or Tamaulipas objected to as not competent evidence: because the witness proves said laws to be written laws, and the testimony of said witness is not competent to prove the written law. Objections overruled and read in evidence by the complainants.

Translation.

UNITED STATES OF AMERICA,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

Translation of the proceedings before the court of the first instance, in the city of Matamoras, taking the depositions of Don Manuel Garcia Rejon.

On the part of the defendants.

On the outside cover.

Proceedings had in fulfilment of the letter rogatory sent by the district court of the United States of America for the district of Texas, in the city of Galveston.

COURT OF THE FIRST INSTANCE, with assisting witnesses.

Third Seal.

Four Reals.

Judge of the First Instance.

Elisha Basse and Robert Hord, American citizens, residents of Brownsville, Texas, as has the best form in law, and with the neces-

sary and fitting declarations, appear before you and say: That in the district court of Texas, in the United States of America, we are prosecuting a suit as attorneys of Messrs. Charles Stillman and Samuel A. Belden, and in this suit the honorable judge of the said district has been pleased to grant to our clients the letter rogatory which duly follows, in English and Spanish; that, as is requested in it, you will be pleased to examine the Licentiate D. Manuel Garcia Rejon, a witness which we present in accordance with the tenor of the interrogatories and cross-interrogatories annexed to the letter rogatory, returning it to us with the proceedings in the form required in it; we therefore entreat that you will be pleased to order what we have requested, because it is agreeable to justice; we swear to what is required, &c.—and cross-interrogatories interlined—correct.

BASSE & HORD.

Matamoras, December 21, 1850.

The accompanying message having been presented: Let what is asked by the court making the request be observed, complied with, and executed. I, judge of the first instance in turn, acting with assisting witnesses on account of the occupation of the notary public, so order and sign. I certify.

MATIAS LONGORIA.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
LUIS L. DE LARA.

At the same date I notified the Señores Elisha Basse and Robert Hord of the preceding order, and having heard it, they signed with me and my assisting witnesses. I certify.

LONGORIA.

BASSE & HORD.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
LUIS L. DE LARA.

In the city of Matamoras, on the twenty-third day of the month of December of the said year, the Señor Licentiate Don Manuel Garcia Rejon, having been previously cited, appeared in court, and I, the judge, administered to him the oath, which he took in form prescribed by law, upon which he declared he would state the truth as to what he might know and should be asked; and being so asked, according to the tenor of the questions contained in the interrogatory, to which reference is made in the foregoing petition, he answered—

To the 1st: That he knows Charles Stillman, Samuel A. Belden, Don Ramon Safen, Doña Feliciano de Tigerina, and Don Manuel Prieto.

To the 2d: That the public office which he holds is that of (promotor fiscal) of the district of Nueve Leon, with his residence in Matamoras, in the Mexican republic; that his profession is that of a lawyer in the same republic; that for thirteen years past he has studied and practised the law of Mexico.

To the 3d: That the things necessary to be done in establishing a town in Tamaulipas, in the year one thousand eight hundred and

twenty-six, were such as the legislature of the same Tamaulipas should decree, and that this decree should have the required publicity, and for the city or town to have a complete title to Egidos, it was sufficient that it should be erected into such city or town as the laws of the Recopilacion de Indios prescribe. That he knew that, in the year of eight hundred and twenty-six, the lands called Egidos of Matamoras were private property. For the government to appropriate the lands of the city it was necessary that the government should decree the appropriation, and determine the indemnification which was to be made to the owners. In relation to the owners of the lands, it was and is necessary that they should consent to the appropriation, and should agree as to the indemnifications made by experienced persons named by the government and the owners, and a third one selected by both. In case they could not agree, the lands were to be surveyed for Egidos, by the mutual agreement between the government and the private owners, that thereby the same titles should vest in the town; so it was arranged by the constitution of Tamaulipas in the year eight hundred and twenty-six, and the amended constitution of the same (State) still regulates it thus, the laws regulating these matters in the constitution of the State of Tamaulipas, which has been amended since that year, but without in any manner changing this arrangement. In the republic of Mexico, proscription as to real estate holds good. If this be held in good faith, and by a title sufficient to transfer the ownership, and ten years must interpose, when (those having the right of property) are residing in the country, and twenty when they are absent; but is necessary that during this time the one having the + right of property should have made no claim against the one in possession.

To the 4th: That the effect of the law of Mexico in force in Tamaulipas in the case already mentioned is that if the owners of Egidos lands were summoned by the government at a time stated, to fix upon the indemnification, after the surveying of the lands, and they should not appear, and if the government declared them in default, and should fix the indemnification, the lands should have passed to the town; but if they were not declared in default, if the lands were not surveyed, nor was the indemnification fixed by the government, they would remain in possession of the private owner.

To the 5th. That after a valid appropriation of egidos lands to a town, this town acquires the property in the lands.

To the 6th, and last. That he knows nothing more which may be a benefit or advantage to the defendants or complainants; that what he has stated is the truth upon his oath, and he confirms and ratifies it; that he is a native of the city and port of Campeachy, in the State of Yucatan, citizen of this city, married, and thirty-one years of age, and signed with me, the judge, and my assisting witnesses. I certify—altered—married—correct.

LONGORIA,
LIC. MAN'L G. REJON.

Ass. wit.
LEONARDO ESPINOSA.

Ass. wit.
LUIS L. DE LARA.

In the aforesaid city, on the same day, month, and year, present in court the Senor Licenciado Don Manuel Garcia Rejon, I, the judge, administered to him a new oath, upon which he declared he would state the truth in relation to what he should be asked; and being so asked in relation to the tenor of the cross-interrogatories contained in the set mentioned in the first page of the petition, he answered:

To the first. That he has been living nine months in the State of Tamaulipas, and that he has already stated where he was born.

To the second. That the laws in force in Tamaulipas are written laws, and that copies in print and in manuscript can be obtained, and that he is ignorant if there be any collection of the said laws in the State of Tamaulipas.

To the third. That in relation to the collections of the laws of Spain, it must be observed that in the Mexican republic all questions are decided by the courts of justice, giving the laws contained in these collections the preference, as designated in the following order: first, the decrees of the Mexican congresses; second, those of the cortes of Spain; third, the last cédulas and resolutions communicated to America; fourth, the special laws relating to the particular matters of which they treat; fifth, the laws de Recopilacion de Yndias; sixth, those of the Recopilaciones Nueva y Novisima; seventh, those of the royal ordinances and of the Alcala, and of Los Fueros Real y Jusgo; and eighth, the laws de las Siete Partidas. But in the States precedence is given to the decrees of their legislatures, and where these are defective, next the decrees of the first two congresses of Mexico, following next the laws de las Cortes de Espana, and the rest in the order aforementioned.

To the fourth. That the works to which the interrogatory alludes have no binding force whatever in themselves, and are only useful to elucidate a doubtful point—the opinion or opinions of those authors guiding the lawyers and judges in the aforementioned doubtful cases.

To the sixth. That to answer the third interrogatory he refers to the “leyes de Indias,” as to when a city or town has a complete title to obtain egidos; that as to what is necessary to be done by the government of Tamaulipas before it can appropriate the lands, he refers to the power which the same government has by the constitution of the State, and for what must be done that the private owners may lose their right of property, he refers to the directions of said constitution and the laws of Partida on the manner of losing the ownership of a thing, which are the laws in force relating to this matter; that to answer to the fourth interrogatory he relies on the articles of the constitution in relation to the appropriation of lands of private owners, and on what the “leyes de Partida” and a royal cédula compiled by Belena on the subject of defaults provide, observing that, as he has said in his answer to the fourth interrogatory, besides the publication of default, it was indispensable that the lands should be surveyed, and that the government should fix the indemnification, as in the same fourth answer is stated.

To the fifth, the order of which is reversed by mistake. That the State of Tamaulipas is sovereign and independent of the general government of the United Mexican States as to what relates to its internal

affairs ; that Tamaulipas, as sovereign and independent, commenced to resist in the year '824 ; that in that character she seceded in the year '836 ; that the congress of Tamaulipas has the power to decree all the laws for the government of the State.

To the seventh. That by his answer to the fourth interrogatory it is seen that the property of individuals or citizens of Tamaulipas and in the United Mexican States cannot be appropriated without a previous indemnification.

To the eighth. That in the Mexican republic the villages, towns, and cities have the same incapacity as minors, and they cannot sell or alienate their egidos nor their propios without a previous recommendation of its propriety, made by two lawyers, the permission of the government of the State, and that the alienation be made at public auction, after thirty days' publication of the intended alienation. In the same manner must be understood my answer to the fifth interrogatory.

To the ninth. That the egidos are granted in Mexico to villages, towns, and cities, that as the population increases it may have room to establish itself conveniently ; and the propios are granted, that with their proceeds they may defray the expenses incident to the government of the villages, towns, and cities.

To the tenth. That he knows nothing of the subject of this interrogatory ; that what he has declared is the truth, upon his oath ; that he is a native of the city and port of Campeachy, married, thirty-one years of age, and signed with me and my assisting witnesses with whom I act. I certify. Interlined—de propiedad—correct.

LONGORIA.

LIC. MAN'L G. REJON.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

Matamoras, December 24, 1850.

The proceedings being concluded as they are, let the originals be delivered to the court, requesting it, together with the letter rogatory and the interrogatories sent by the said court. I, the Judge, with my assisting witnessess with whom I act, so order and sign. I certify.

LONGORIA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

On the same day, month, and year, the said proceedings, consisting of seven legal leaves, are delivered under cover, as provided in the preceding order, and in testimony I give the following certificate, which I sign with my assisting witnesses. I certify.

LONGORIA.

Ass. wit.

LEONARDO ESPINOSA.

Ass. wit.

LUIS L. DE LARA.

On the envelope.

To the District Court of the United States of America for the District of Texas, in the city of Galveston.

From the Court of the 1st Instance of Matamoras, Mexico.

REJECTED TESTIMONY.

Answer of Samuel A. Belden.

The paragraphs separately from page 4 to page 8, enclosed in brackets, were offered in evidence by defendants Stillman and Belden respectively, objected to by complainants, and objection sustained by the court.

JAMES LOVE, *Clerk.*

“ That in the pretended grant under which the complainants claim in their bill described, there is an express reservation of a right by the government to take any part of said land for a town or for the benefit of any town or city to be thereafter established, the owners being entitled to compensation for the same. Respondent further alleges that the Congress of Tamaulipas in the exercise of the right so reserved, and with full powers to do so, under the laws and constitution of said State, proceeded to set aside or appropriate said land, or the quantity of , for the use, benefit, and property of the city of Matamoras, which was done by an act of Congress of said State, at Victoria, on the 5th day of October, A. D. 1826. That said appropriation was a valid transfer to the city of Matamoras of all the right, title, and interest which the original grantee, or his heirs, legatees, and legal representatives had in and to the land in controversy. That the same was a valid and binding transfer and appropriation, and legal, as respondent is advised, and in all respects according to the laws of said State. Respondent does not know of his own knowledge whether the complainants, or the then claimants of said land, received compensation for the same or not. But he is informed and believes, and so charges the fact, that if they did not receive compensation it was their own fault, in refusing to name appraisers, and take the other necessary steps required by law to that end, which they have always neglected, as respondent is informed and believes. Respondent is advised that under the laws of Tamaulipas, previous payment was not necessary to a valid appropriation of said land to the use of said city. Respondent further alleges that the city of Matamoras, through its regular and legally constituted authorities, took possession of said land, and had the same surveyed and set apart for city purposes, under and by virtue of said decree of the Congress of the State of Tamaulipas. That said tract so set apart and appropriated embraced that tract, or a large portion thereof, upon which the town of Brownsville is now situated, and in possession of and claimed by respondent. Said town

tract so set apart and dedicated to the City of Matamoras, on the east bank of the Rio Grande, is bounded as follows :

Respondent further alleges, that after the city authorities of Matamoras had so taken possession of said land under the dedication and transfer aforesaid they proceeded, as by law they had a right to do, from time to time, to sell, convey, and grant portions of said land to various persons, among others to

Respondent further charges that he and the said have held peaceable and adverse possession of said lands for three, five, ten, and twenty years next before the exhibition of complainants' bill, under said city title ; and the said respondent pleads and relies upon the statutes of prescription and limitation, and alleges that the said lands have been held and possessed adversely to complainants' claim by the City of Matamoras and its vendees, since the original appropriation and dedication to said city in the year 1826, by an act of the congress or legislature of the State of Tamaulipas.

Statement of evidence offered by defendants and rejected.

UNITED STATES DISTRICT COURT.

In Chancery.

CAVAZOS and others	}	No. 41.
vs.		
STILLMAN and others.		

On the hearing of the above entitled cause the solicitors of the defendants offered to read, in behalf of the defendants, from "The Addresses and Messages of the Presidents of the United States, inaugural, annual, and special, from 1789 to 1846, &c. Compiled from official sources by Edwin Williams, in two volumes, published by Edward Walker, in New York, in 1847." From President Tyler's message of the 22d of April, 1844, to the Senate of the United States, the first paragraph, as follows: "*To the Senate of the United States:* I transmit herewith, for your approval and ratification, a treaty, which I have caused to be negotiated between the United States and Texas, whereby the latter, in the conditions therein set forth, has conveyed all its right of separate and independent sovereignty and jurisdiction to the United States. In taking so important a step I have been influenced by what appeared to me to be the most controlling considerations of public policy and the general good ; and in having accomplished it, should it meet your approval, the government will have succeeded in reclaiming the territory which formerly constituted a portion, as it is confidently believed, of its domain under the treaty of cession of 1803, by France to the United States." Also, from the inaugural address of President James K. Polk, March 4, 1845: "The Republic of Texas has made known her desire to come into our Union, to form a part of our confederacy, and enjoy with us the blessings of liberty, secured and guarantied by our constitution. Texas was once a part of our country, was unwisely called away to a foreign power, is now independent, and possesses an undoubted right to dis-

pose of a part or the whole of her territory, and to merge her sovereignty, as a separate and independent State, in ours. I congratulate my country that by an act of the late Congress of the United States the assent of this Government has been given to this reunion, and it only remains for the two countries to agree upon the terms to consummate an object so important to both." In connexion with the offer of the foregoing extracts, it was suggested that the executive documents, published by the authority of Congress for the years preceding annexation, have not been furnished to the United States District Court nor to the United States officers for this District, and that the Congressional Globe and Appendix for the years 1844 and 1845 do not contain the message nor address from which the said extracts were made, and that the solicitors of the defendants were not able to procure copies of said message and address in a more authentic form. Which evidence was objected to by complainants, and objections sustained by the Court.

JAMES LOVE,
Clerk.

Amended answer of Samuel A. Belden and Charles Stillman.

The second amendment offered in evidence by defendants at the hearing objected to, and objection sustained.

JAMES LOVE,
Clerk.

Second Amendment. On the fourth page of said answer, on the 16th line of said page, and immediately after the word "of," in said 16th line of said page, insert the following words, that is to say: Four leagues of land immediately around and adjoining the said town of Matamoras, taking the Public Plaza of said town as the point of beginning; and this respondent, further answering, says, that *four thousand six hundred and fifty-four* acres, being part of said four leagues of land so dedicated, given, and appropriated to said town of Matamoras, and are situated on the east side of the Rio Grande, and opposite the town of Matamoras, which said quantity last named of four thousand six hundred and fifty-four acres, embracing the whole site of the present town of Brownsville, and all lands known as the "Exidos" of Matamoras, on said east side of said Rio Grande, in and adjacent to said town site of Brownsville.

The separate paragraphs of 3d amendment offered in evidence by defendants at the hearing objected to by complainants, and objection sustained.

JAMES LOVE,
Clerk.

Third Amendment. On the 6th page of the answer of Samuel A. Belden, and in the 5th line of said page, immediately after the words as follows, insert the following words: Commencing at a point on the east bank of the Rio Grande, which is 4845 varas from the centre of

the Public Plaza of the City of Matamoras, and which point bears from the centre of said Plaza north $82^{\circ} 30'$ east, running thence north 4600 varas, thence west 7760 varas to a point where said line strikes the east bank of the Rio Grande, thence eastwardly with the meanders of said Rio Grande, to the place of beginning.

Offered in evidence by defendants, objected to, and objection sustained.

JAMES LOVE,
Clerk.

Fifth Amendment. On the 8th page of said answer of said respondent, and on the second line of said page, and immediately after the words "the said," insert the following words: "Respondent, Charles Stillman, and those under whom these respondents claim said land, and all thereof, from the Ayuntamiento or City of Matamoras down to these respondents.

Offered to be read by defendants at the hearing, objected to, and objection sustained.

JAMES LOVE,
Clerk.

Ninth Amendment. And the said respondent, for further amendment to his answer to the bill of complainants, herein refers to and makes a part of this amended answer a certain map made by George Lyon, Deputy Surveyor, and marked letter A, and says the lines on said map which were made and are made in dark or blue ink include the land owned and claimed by these respondents by title derived from and under the city of Matamoras and its authority, said land generally known as the "Ejidos of Matamoras." And that all lands represented by and included in and by the red lines on said map are also held under and by virtue of said locations made by the said respondent, Charles Stillman, and those under whom respondents claim, and the surveys thereon, which said locations and surveys are set forth more at length in this preceding amended answer.

Depositions from Matamoras.

N. B. In the same package with the depositions from Matamoras of Don Juan Longoria y Lerna, Don Pio Quinto Inojosa, Don Marcos Galindo, Don Juan Prado, and Don Calixto Portilla, is a deposition of Don Victoriano Lopez, which was excluded upon the objections of the defendants, and is as follows, to wit:

Deposition of Don Victoriano Lopez.

This deposition was ruled out by the Court on the objection of the defendants.

JAMES LOVE,
Clerk.

Translation.

In the city of Matamoras, on the nineteenth day of the month of April of one thousand eight hundred and fifty, appeared in Court

Don Victoriano Lopez, one of the witnesses included in the interrogatories mentioned in the foregoing act; I administered to him an oath in the manner prescribed by law, under which oath he offered to tell the truth in relation to what he might know and should be asked; and being interrogated by me in relation to the matters and questions contained in the said interrogatories, he answered

To the 1st. That he is perfectly well acquainted with the plaintiffs named in the first part of this interrogatory and to whom it refers; that of the defendants he only knows Dona Maria de los Angeles Garcia Safen de Tarneva, Don Ramon Safen, Dona Feliciana Gozeascochea de Tigerina, and Don Manuel Prieto; and he answered

To the 2d. That he is seventy years of age, and is now living in this city, of which he is a citizen; that he has lived on the bank of the Rio Grande, within the jurisdiction of this city, for twenty-one years, during which he has lived on the Rancho of Soledad, on the right bank of said river, about two years, four on the left bank of said river, on the Rancho of Don Sabas Cavazos, and the remainder of the time in the aforementioned city; and he answered

To the 12th. That he was well acquainted with Don José Salvador de la Garza, and deponent certifies that his principal hacienda was in the Agostadero of Esperitu Santo, by which name the said hacienda was known; and he answered

To the 21st. That he certifies that Dona Estafana Gozeascochea lives on the left bank of the Rio Grande or Bravo, a little above the new town; that her rancho is situated on the Agostadero of Esperitu Santo; that he likewise testifies that the said lady lived on her said rancho in the month and year mentioned in the interrogatory; and he moreover knows and declares that Dona Maria de los Angeles Garcia married the first time with Dona Ramon Safen; and he answered

To the 28th. That he knows nothing in favor of or against any of the parties, and for this reason has nothing to say; and he said that what he had stated was the truth under his oath; that he is a native of Camargo, and citizen of this city, widower, seventy years of age. His deposition was read to him, and he said it was faithfully written, not signing it because he knew not how. I, the Judge, signed it with my assisting witnesses, with whom I act for the reasons stated.

PEDRO J. DE LA GARZA.

Ass. wit.,
LEONARDO ESPINOSA.

Ass. wit.,
CRISTOVAL LEAL.

Part of Document CR, as proved by Arguelles.

N. B. Part of this document, as follows, was excluded at the hearing.

JAMES LOVE,
Clerk.

Read in evidence by the complainants at the hearing as far as the word "pero;" the rest excluded upon defendants' objections.

JAMES LOVE,
Clerk.

Translation.

But under the most solemn form of law I certify that the aforesaid Don Antonio Leal de Leon, Don Blas Maria Cavazos, were the first appointed the President of the Ayuntamiento, and First Alcalde in the aforesaid year of thirty-three, and in the following year of eighteen hundred and thirty-four, Don Blas Maria Cavazos was so under the same title ; and at the request of Don Juan Treanor, citizen of Matamoras, I issue the present certificate in this my first Court in the town of Reynosa, on the 12th of April, one thousand eight hundred and fifty, acting with assisting witnesses for want of a Notary Public, there being none. I certify.

MANUEL DE LA VINA.

Ass. wit.,
MANUEL CAVAZOS GUERRA.

Ass. wit.,
JUAN M'A DOMINGO.

Document marked QR, proved by Hale and Rosignol.

Offered in evidence by the complainants; objected to by the defendants on the ground that it purported to prove a fact, and not a copy from the records; objections sustained, and paper rejected. March 28, 1851.

JAMES LOVE,
Clerk.

Translation.

Translation of the document marked *Q R*, referred to in the foregoing deposition.

There is no sealed paper of the corresponding seal in the office of the administration.

I, the citizen Juan Prado, secretary ad interim of the illustrious Ayuntamiento of this city, certify that Don Antonio Escevedo was in this city in his capacity as Notary Public, and according to the proofs that exist in the Protocols among the archives under my charge, he exercised and performed his duties publicly and openly from the beginning of the year 1834 and thereafter; and at the request of Don Juan Treanor I give the present certificate, which I sign in the aforesaid city of Matamoras, on the third day of May, one thousand eight hundred and fifty.

JUAN PRADO,
Secretary ad interim.

Deposition of W. G. Hale.

Objected to by defendants because no notice was given other than the notice on the order book entered by complainants' counsel, of the filing of the interrogatories, which order was not served on defendants or counsel. Heard and overruled.

JAMES LOVE, *Clerk.*

Objected to also because the deposition offered did not appear to be on file. Objections overruled on proof that it was the same taken from the envelope which was endorsed by the Clerk as filed.

Objected to again for want of sufficient notice. Objection sustained by the Court, and deposition excluded at the hearing.

JAMES LOVE, *Clerk*.

[Commission.]

The President of the United States to Edmond B. Otis, Augustus C. Allen, and E. P. Hunt, or either and each of them, greeting :

Know ye that I, in consequence of your prudence and fidelity, have appointed and by these presents do give unto you and each of you full power and authority diligently to examine all writings whatsoever, upon certain interrogatories to be exhibited to you in a cause now depending and at issue in Chancery, in the District Court of the United States for the District of Texas, wherein Don Rafael Garcia Cavazos is complainant and Charles Stillman is defendant; and therefore I command that one of you do, at certain days and places to be appointed for that purpose, cause the witnesses named in the title to said interrogatories, or such of them as shall be delivered to you, to come before you, and then and there examine them apart upon the said interrogatories either upon their respective corporal oaths first taken by you upon the Holy Evangelists, or, in case of Quakers, upon their solemn affirmation and declaration, or in such other solemn manner as is or may be authorized by law, and that you do take such their examinations and reduce them into writing; and when you shall have so taken them, you are to send the same to the Clerk of the above named Court, without delay whatsoever; it shall be closed up and under your seal distinctly and plainly set, together with the said interrogatories and this writ. And I further command you that, before you act in or be present at the swearing or examining any witness or witnesses, you do take and subscribe the oath specified in the schedule hereunto annexed, before a Commissioner of the United States or a Judge of some Court of Record.

Witness the Honorable John C. Watrous, Judge of said Court, and the seal of said Court, this 7th day of August, A. D. 1850.

[SEAL.]

JAMES LOVE, *Clerk*.

[Oath.]

I will, according to the best of my skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations of all and every witness and witnesses produced and examined by virtue of the commission annexed upon the interrogatories delivered to me, and I will not publish, disclose, or make known to any person or persons whatever the contents of all or any of the *witnesses*, or any of them to be taken by me, until publication shall pass pursuant to some general or special order of the Court wherein the same is taken. So help me God.

E. P. HUNT.

Subscribed and sworn to this 7th day of August, A. D. 1850, before me.

EMMETT JONES,
U. S. Commissioner.

[Interrogatories.]

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Interrogatories to be propounded to William G. Hale, a witness to be produced, sworn, and examined in a certain cause now depending in Chancery, in the District Court of the United States for the District of Texas, wherein Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Richard Fitzpatrick, Patrick C. Shannon, W. W. Chapman, and Angela Garcia de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto, are defendants, on the part of complainants.

Interrogatory first: Do you know the parties in this cause, or any, and whom of them?

Interrogatory second: Are you acquainted with the handwriting and signature of Juan Prado? If so, look at the paper writings now exhibited to you, marked *L M, N T, U V, X Y, O P, Q R, B C, F G, D E*, and to be annexed to your deposition, and state whether or no the signature purporting to be that of Juan Prado at the end of each is his genuine signature.

Interrogatory third: What office did Juan Prado hold at the time of signing said paper writings, and how do you know that he held it?

Interrogatory fourth: Look at the printed paper marked _____, now exhibited to you, and state whether or no the same is a number or copy of a newspaper printed in Matamoras, Mexico. How do you recognize it, and what makes you believe it to be what you state it to be?

Interrogatory fifth: Are you acquainted with the handwriting and signature of Jose Francisco Recio, curate of the town and jurisdiction of Camargo? If so, look upon the document now produced to you, and to be annexed to your deposition, marked *G H*, purporting to be a copy from the archives or ecclesiastical registers of said town of Camargo, and state whether or not the same, and the signature thereto, is the handwriting of the said Recio.

Interrogatory sixth, and last: Do you know, or can you state, anything else which may be a benefit or advantage to the parties in this cause, or which may be material to the subject-matter of this your examination? If yea, set it forth at large in your answer.

EBENEZER ALLEN,
Solicitor for Compl't's.

I, James Love, Clerk of the District Court of the United States for the District of Texas, hereby certify that the foregoing is a true and correct copy of the interrogatories filed in this office July 25, 1850, to be propounded to William G. Hale on the part of the complainants, in the case of Rafael Garcia Cavazos and others, against Charles Stillman and others.

JAMES LOVE.
Clerk.

[Deposition.]

Deposition of William G. Hale, a witness produced, sworn, and examined on Wednesday, the seventh day of August, A. D. 1850, at the office of E. P. Hunt, Commissioner in Galveston, Texas, by virtue of a commission issuing out of the District Court of the United States for the District of Texas, and hereto attached, I, the acting commissioner under the commission, having first duly taken the oath annexed thereto—

The said William G. Hale, of Galveston, in the said State of Texas, a witness produced, sworn, and examined on the part of the complainants, deposeth and saith as follows :

In answer to the first interrogatory to him addressed : I do know the complainants and Charles Stillman, Samuel A. Belden, Patrick C. Shannon, and W. W. Chapman, among the defendants, and I have seen Don Manuel Prieto, also one of the defendants. I do not know the other parties.

In answer to the second interrogatory to him addressed : I am acquainted with the handwriting and signature of Juan Prado, having seen him write and sign documents, and having also seen documents acknowledged by him to be in his handwriting. The signature purporting to be the signature of Juan Prado at the end of each of the papers within, exhibited to me marked as in the interrogatory, is his genuine signature.

In answer to the third interrogatory to him addressed : Juan Prado, at the time of signing said paper writings, was Secretary of the Ayuntamiento of the city of Matamoras, and, as such, keeper of the public archives of the said city. It was a part of the duties of his office to give copies of papers or documents among such archives. I know that he held this office, because he was, to my knowledge, generally recognized as such officer by the inhabitants of said city, and so called and addressed in my hearing by members of the said Ayuntamiento, and by the first Alcalde, D. Pedro de la Garza, and I was directed by the Ayuntamiento in consequence to apply to the same Juan Prado to obtain the copies and papers referred to in the interrogatory, which he made out at my request and that of Don Juan Treanor, and delivered to me in person at the Secretary's office.

In reply to the fourth interrogatory to him addressed : The printed paper marked by the Commissioner *B S*, and exhibited to me, is a copy or number of a newspaper formerly printed in the city of Matamoras, in Mexico, called "El Bien Publico," and edited by one Andres Treviño, formerly Secretary of the Ayuntamiento of that city. I recognize it, and believe it to be what I state it to be, from the circumstance of my having seen many other numbers of said newspaper issued and in circulation in the city of Matamoras, to which it corresponds in size, quality of paper, type, and other general characteristics.

In reply to the fifth interrogatory to him addressed : I am acquainted with the signature of José Francisco Recio, whom I know to be curate of the town of Camargo and its jurisdiction. I acquired my knowledge of his signature from having seen several documents

signed by him. The signatures of persons holding an office in Mexico are generally marked and peculiar, and have a flourish or "rubric" below the name, or at the end of it, which it is difficult to imitate. The body of the document referred to in the interrogatory, as far as the ninth line, is not, according to my belief, in the handwriting of the person above named, but the signature at the end is his genuine signature, and the remainder of the paper after the ninth line appears to be in his handwriting. At the request of the complainants I annex to this deposition a sheet of stamped paper, to replace the common paper used in the said document.

In answer to the sixth and last interrogatory to him addressed: I know nothing besides what I have already stated that I believe to be material to the subject of this examination, and I know nothing which, in my opinion, would be a benefit to any of the defendants in this cause in their defence. I do know many things, although in general only from information and belief, which might be a benefit or advantage to the complainants, but being one of the counsel employed by said complainants, I do not conceive it proper for me to state them unless specially interrogated.

WILLIAM G. HALE.

And I, the said commissioner, do hereby certify that the foregoing answers having been taken and reduced to writing by me, were carefully read over by me to the said witness, who thereupon subscribed the same in my presence.

[SEAL.] Witness my hand and private seal, this day and year above written.

E. P. HUNT, *Commissioner*.

The Deposition of Juan Treanor.

Offered in evidence by complainants, objected to, and objections sustained. March 31, 1851.

JAMES LOVE, *Clerk*.

[Commission.]

The President of the United States to Augustus C. Allen, greeting:

Know ye that I, in consequence of your prudence and fidelity, have appointed and by these presents do give unto you full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a cause now depending and at issue in chancery, in the district court of the United States for the district of Texas, wherein Rafael Garcia Cavazos and others are complainants, and Charles Stillman and others are defendants; and therefore I command that you do, at certain days and places to be appointed for that purpose, cause the witnesses named in the title to said interrogatories to come before you, and then and there examine them apart upon the said interrogatories, either upon their respective corporal oaths first taken by you upon the Holy Evangelists, or, in case of Quakers, upon their solemn affirmation and declaration, or in such

other solemn manner as is or may be authorized by law, and that you do take such their examinations and reduce them into writing; and when you shall have so taken them, you are to send the same to the clerk of the above named court without delay whatsoever; it shall be closed up and under your seal distinctly and plainly set, together with the said interrogatories and this writ. And I further command you that, before you act in or be present at the swearing or examining any witness or witnesses, you do take and subscribe the oath specified in the schedule hereto annexed before a Commissioner of the United States, or a judge of some court of record.

Witness the Honorable John C. Watrous, judge of the district court of the United States for the district of Texas, and seal of said court, this twenty-eighth day of February, in the year of our Lord one thousand eight hundred and fifty.

[SEAL.]

JAMES LOVE, *Clerk.*

I will, according to the best of my skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the commission annexed, upon the interrogatories delivered to me, and I will not publish, disclose, or make known to any person or persons whatsoever the contents of all or any of the depositions of the witnesses, or any of them to be taken by me, until publication shall pass pursuant to some general or special order of the court wherein the same are taken. So help me God.

A. C. ALLEN.

Subscribed and sworn to this 26th day of April, A. D. 1850, before me.

STEPHEN POWERS,
Com'r of Aff'a'ts and Bail for D'ct T'x's.

[Interrogatories.]

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others	} No. 41.
<i>vs.</i>	
CHARLES STILLMAN and others.	

Interrogatories to be propounded to J. J. H. Grammont, George Lyon, and Juan Treanor, witnesses to be produced, sworn, and examined before the commissioner named for that purpose by the judge of the district court of the United States for the district of Texas, in the above entitled cause, on the part of complainants.

Interrogatory first: [To all.] Do you know the parties in this cause, to wit: Rafael Garcia Cavazos, Doña Maria Josefa Cavazos, his wife, and Doña Estafana Gozeascochea de Cortina, complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Richard Fitzpatrick, Patrick C. Shannon, W. W. Chapman, and Doña Angela

[or de los Angeles] Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto, or either and which of them?

To J. J. H. Grammont.

Interrogatory second: Are you acquainted with the handwriting of Thomas J. Stansbury? If so, is or is not the signature at the end of the documents now presented to you, marked *AA, BB, CC, DD, EE, HH, KK, LL*, and purporting to be copies from the records of the county of Cameron, his true and genuine signature? Is the said Stansbury living or dead?

Interrogatory third: What office did the said Stansbury hold at the time of signing said documents?

Interrogatory fourth: Is there, or not, a newspaper published in Cameron county by the name of the "American Flag," or the "American Flag and Cameron County and Matamoras Advertiser," or some other such name? If so, who has been the editor of such newspaper from August, 1848? And are or are not the copies or numbers of a newspaper now presented to you, marked 1, 2, 3, the copies and numbers actually issued of the newspaper before named? Is or is not the type, title, and appearance the same?

Interrogatory fifth: What newspaper or journal was published in the city of Matamoras in 1848, 1849? Is or is not the number now presented to you, marked *ZZ*, one of the numbers of the said paper?

To George Lyon.

Interrogatory sixth: What office do you hold in the county of Cameron? How long have you held it? Who has executed all of the surveys made within the county since you filled that office?

Interrogatory seventh: Is there, or not, a dense thicket or "monte" some distance above the town site of Santa Rita? How far does it extend between the Arroyo Colorado and the Rio Grande, and in what direction?

Interrogatory eighth: Look at the document now presented to you, marked *MM*, and purporting to be a copy of the field notes of a survey for P. C. Shannon. Is or is not the said copy a true copy of your field notes as returned? Annex also true copies of all surveys or locations made within two leagues of the site of Brownsville by you as deputy surveyor of the said county.

Interrogatory ninth: How far is Rancho Viejo from the town site of Brownsville, and in what direction? How far is the town site of Brownsville from the Rio Grande? How far is Fort Brown from the said town site?

To Juan Treanor.

Interrogatory tenth: From whom did you receive the original Testimonios of Title of Don José Salvador de la Garza to the Agostadero del Esperitu Santo? To whom did you deliver it, and for what purpose?

To all.

Interrogatory eleventh: How long had Charles Stillman, Samuel A. Belden, and Patrick C. Shannon resided in Matamoras before removing to this side of the Rio Grande? What business had they been engaged in in Matamoras? When did they remove their mercantile establishments to this side of the Rio Grande?

Interrogatory twelfth: Do you know anything else which may be a benefit or advantage to any of the parties at issue in this cause, or which may be material in this your examination? If so, set it forth at large in your answer.

ALLEN & HALE,
Of Counsel for Complainants.

I, James Love, clerk of the District Court of the United States in and for the District of Texas, do hereby certify the foregoing to be a true and correct copy of the original interrogatories now on file in this office in the case of Rafael Garcia Cavazos and others, against Charles Stillman and others, to be answered by J. J. H. Grammont, George Lyon, and Juan Treanor.

JAMES LOVE, *Clerk.*

[Deposition.]

In answer to the first interrogatory: I know all the parties except Richard Fitzpatrick and Jacob Mussina.

In answer to the tenth interrogatory: I received the title from Don Manuel Prieto with the consent of R. G. Cavazos, Doña Josefa Cavazos, his wife, Doña Estafana Gozeascochea de Cortina, and Doña Feliciana Gozeascochea de Tigerina, and I delivered it to Messrs. Allen and Hale, attorneys-at-law, residing in Galveston, Texas, for the purpose of instituting the present suit and another against Simon Mussina, and also for the purpose of having it registered in the General Land Office.

In answer to the eleventh interrogatory: I have known Charles Stillman since eighteen hundred and thirty-four as a resident of Matamoras. I believe Mr. Stillman moved a branch of his mercantile establishment over to Brownsville in 1848. I knew Mr. Samuel A. Belden as a resident of Matamoras in 1847, and I believe he moved a branch of his mercantile establishment over to Brownsville in 1849. I also knew Mr. Shannon as a resident of Matamoras in eighteen hundred and forty-seven. They were all merchants; and I believe at the time I first knew P. C. Shannon he had mercantile establishments on both sides of the Rio Grande. I believe Mr. Shannon removed from Matamoras in 1849 to reside at Freeport. Mr. Belden has within the last six months removed from Matamoras to Brownsville.

In answer to interrogatory twelfth: I do know other things which would be of benefit to the plaintiff in this cause, but as I am not asked especially I do not think it is proper to state them; and I know nothing which would be of benefit to the defendants, nor material to the subject of this examination.

JUAN TREANOR.

And I, the Commissioner, certify, that having read the above answers to the enclosed interrogatories to the said witness, he subscribed his name thereto as above written, in my presence; and I do further certify, that the examination of the remaining witnesses was not had, and I accordingly return the original commission and interrogatories to the court from which they issued.

Witness my hand and seal, this 7th day of May, A. D. 1850.

[SEAL]

A. C. ALLEN,
Commissioner U. S. D. C.

Document O.

Constitution of the State of Tamaulipas.

The complainants, at the hearing, offered to read in evidence, as a part of their rebutting testimony, the printed pamphlet marked O, purporting to be a copy of the amended Constitution of the State of Tamaulipas, but the defendants objected, on the ground that it was not sufficiently proved as a foreign law by the deposition of Don Rufino Rodriguez, and the objection was sustained by the court, and the document excluded as evidence.

JAMES LOVE,
Clerk.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

I, James Love, Clerk of the District Court of the United States for the District of Texas, certify the foregoing one hundred and three pages contain true and perfect copies of the documents N, O, No. 8, being the old and new constitutions of the State of Tamaulipas, originally filed in the Chancery case No. 41, Rafael Garcia Cavazos *et als.* vs. Charles Stillman *et als.*, which originals are withdrawn by leave of the Court, and these copies filed in their stead.

In testimony whereof, I hereunto set my hand and affix the seal of said Court, at Galveston, this 15th day of August, in the year of our Lord one thousand eight hundred and fifty-four.

[SEAL.]

JAMES LOVE,
Clerk.

Translation.

O.

Political Constitution of the free State of Tamaulipas, amended by its extraordinary Congress, on the 25th day of April, 1848.

City of Victoria, Government Press, under the charge of Asencion Pizana.

Francisco Vital Fernandez, Governor of the free State of Tamaulipas, to all its inhabitants. Know ye: That the Congress of the

same State has decreed as follows: In the name of Omnipotent God, the Creator and Preserver of society—the extraordinary Congress of the State of Tamaulipas, considering that the system of popular representative federal government having been re-established, the State has recovered its independence and sovereignty, fully enjoying again the right of organizing its internal government and administration; that the present legislative body is, by its origin and object, invested with sufficient powers to enact the amendments which experience has shown to be necessary in the constitution promulgated on the 7th of May, 1825; and that in consequence of the indispensable variations which must be made in it in order to establish it in perfect harmony with the act of reforms decreed by the sovereign constituent Congress of the 18th of May, 1847, it is proper to frame a single code, in order that the articles amended, omitted, or added to, may not give rise to a confusion injurious in a matter of so much importance, it has been pleased to decree the following—

AMENDED CONSTITUTION.

TITLE FIRST. *Section First.*

Of the State, its territory, religion, and form of government.

Art. 1. The State of Tamaulipas is free, independent, and sovereign as to its internal government and administration, but as to the objects entrusted the powers of the Union, it has no other rights than those expressly fixed in the general constitution.

Art. 2. The territory of the State comprises the former province of New Santander.

Art. 5. The government of the State is republican, representative, and federal, and the public power is divided into legislative, executive, and judicial.

Section Fourth.

Of the powers of Congress and its standing committee.

Art. 42. The powers of Congress are:

First. To decree, interpret, explain, and repeal the laws relative to the internal government of the State in all its departments.

Fifth. To approve the municipal ordinances of the towns, and their plans of arranging the municipal property (*planes de arbitros.*)

Section Fifth.

Of the sanction and formation of the laws.

Art. 44. The Deputies, the Governor, and the Supreme Court of Justice, in a judicial order, have the right of presenting propositions of laws (*iniciacion de ley.*)

Art. 45. The propositions of the Governor and of the Supreme

Court of Justice shall be referred immediately to the respective committee.

Art. 70. The powers of the Governor are :

First. To provide for the safety of the State abroad, and for the tranquillity and the preservation of public order in the interior, in conformity with the constitution and the laws.

Second. To provide for the execution of the constitution, laws, and decrees of the Federation ; of the constitution, laws, and decrees of the Congress of the State, and to make the proper decrees and orders for their execution.

Tenth. To determine, in his capacity as Governor, the matters which the laws may place under his inspection.

Eleventh. To propose the laws which he may judge proper for the good of the State.

Art. 71. The Governor cannot,

First. Imprison any person, or impose a penalty upon him ; but he may make arrests when the public tranquillity requires, placing the accused at the disposition of the proper judge ; and he may also fine to the amount of five hundred dollars those who, after being warned, shall persist in disobeying his orders.

Second. Take possession of the property of any individual or corporation, except when an object of general utility, in the judgment of the Council, demands it. But the expropriation shall never be made without first compensating the party interested, upon the judgment of experts chosen by the party and the Governor.

Section Third.

Of the Secretary of the Government.

Art. 78. There shall be a Secretary of State of the Government, whose duties shall be,

First. To authorize with his signature all the decrees, orders, and resolutions of the Governor.

Second. To manage the Secretary's office as its chief.

Third. To keep an exact register of all the resolutions of the Government.

TITLE FOURTH. *Of the Judicial Power.*

Section First.

Of the administration of justice in general.

Art. 85. The tribunals and judges can never interpret the laws, suspend their execution, nor make regulations for the administration of justice.

TITLE SEVENTH. *Single Section.*

Of the observance of the Constitution.

Art. 108. Neither the Congress nor any other authority can dispense with the observance of the Constitution in any of its articles.

Given in the city of Victoria on the 25th of April, 1848. Licentiate Antonio Canales, President; Eleno de Vargas, Vice-President; Licentiate José Nunez de Carceres, Jesus de Cardenas, Doctor Simon de Partes, José Ignacio de Saldaña, Lorenzo Cortina; Ramon de Cardenas, Deputy Secretary; Ramon Rodriguez Fernandez, Deputy Secretary.

Wherefore, I order it to be printed, published, and circulated, and to have its due execution. City of Victoria, April 26, 1848. Francisco V. Fernandez.

RUFINO RODRIGUEZ, *Chief Clerk.*

N. B.—The foregoing extracts contain all the articles of the constitutions referred to, which appear to be applicable to the present controversy, the translator engaging to translate the whole, if thought necessary.

On the Outside Cover of the foregoing Documents.

REPUBLIC OF MEXICO,
State of Tamaulipas.

Documents referred to in the depositions of Don Juan Nep'o Molano, Don Rufino Rodriguez y Don Antonio Jimenes Valdez, taken at the request of Don Rafael Garcia Cavazos and others, and which documents are ordered to be added to the package of testimony of the witnesses offered by the said parties.

I certify the foregoing to be a correct translation of the original, made by order of the Court.

WILLIAM G. HALE.

Parts of Deposition of George Lyon ruled out.

Fifth interrogatory. [As assignee of David Snively. These lands were surveyed by virtue of headright certificates granted by the late Republic and the present State of Texas.] [I went to Corpus Christi for the purpose to get said field notes and certificates, when the surveyor, Jacob Snively, informed me that he had sent them, duly signed and recorded, by a Mr. Francis Hughes to Austin, enveloped to Col. V. E. Howard, with instructions, that, should he not meet Mr. Howard at Austin, to leave them at the General Land Office; and should he meet Mr. Howard, to leave them with him.]

6 int. [By virtue of five certificates emanating from the Republic and State of Texas.] [Said surveys were made by virtue of a certificate issued to J. W. B. McFarlane for one-third of a league, being a part of the quantity of land to which he is entitled by virtue of certificate No. 111, issued by the Board of Land Commissioners of the County of Victoria, on the day of , A. D. eighteen hundred and . Second: One issued to Sabas Medrano for six hundred and forty (640) acres of land, being the quantity of land to which he was entitled by virtue of certificate No. 18, issued by the Board of Land Commissioners for the County of Nueces, on the day of A. D. one thousand eight hundred and . Third: One issued to Jacob Snively for nine hundred and sixty acres (960) of land,

being a part of the quantity of land to which he was entitled by virtue of land warrant No. $\frac{563}{632}$, issued by the Commissioner of the General Land Office on the day of , A. D. one thousand eight hundred and forty. Fourth: One to David Snively for three hundred and twenty (320) acres, being the quantity of land to which he was entitled by virtue of certifiante No. 39, issued by the Board of Land Commissioners for the County of Refugio, on the day of , A. D. one thousand eight hundred and . Fifth: one of twelve hundred and eighty acres (1280), issued to Estevan Villareal, being the quantity of land to which he is entitled by virtue of certificate No. 36, issued by the Board of Land Commissioners for the county of Nueces, on the day of , A. D. one thousand eight hundred and forty.

1 cross-int. [By virtue of certificates emanating from the late Republic and present State of Texas.]

Deposition of W. O'Docharty, No 4, part excluded.

[I understood then and now that the Ayuntamiento had no lawful authority to convey any labors or lots in any part of the Ejidos, because I understood from the Ayuntamiento themselves and others, that the land which they took as Exidos was never appraised or the owners paid for it, both of which cases being absolutely required by the laws of Mexico.

WILLIAM O'DOCHARTY.]

Deposition of Felix A. Blucher.

[Objections.]

The defendants, Belden, Stillman, and Mussina, offered in evidence the deposition of Felix A. Blucher, taken before H. A. Gilpin, to which the complainants objected because the commission was not issued to or executed by a Notary Public, as it should have been by the agreement, nor was the Commissioner named by the Judge of the Court, and the objection was sustained by the Court, and the said deposition was excluded. The defendants then offered the papers annexed to the said deposition independently, as being properly certified to make their testimony; but the complainants objected for the following reasons: 1st. Because the signature of Felix A. Blucher is not proved. 2d. Because the certificate is not sufficient. 3d. Because the papers certified are not copies of the legal records of the surveyor's office. 4th. Because the testimony is incompetent, irrelevant, and does not tend to prove the issues or the allegations in the answer of the defendants. And the first, second, and third objections were sustained by the Court, and the papers aforesaid excluded.

Interrogatories.

DISTRICT COURT OF THE UNITED STATES;
District of Texas.

In Chancery.

Interrogatories to be propounded and administered to Felix A. Blucher, of the County of Nueces, a witness to be produced, sworn, and examined in a certain cause now pending in Chancery in the District Court of the United States in and for the District of Texas, wherein Rafael Garcia Cavazos and his wife, and Estafana Gozeascochea de Cortina are complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Richard Fitzpatrick, Patrick C. Shannon, W. W. Chapman, and Maria Angela Safen de Tarnava, Ramon Safen, Feliciano de Tigerina, and José Manuel Prieto are defendants, on the part of the defendants, Stillman, Belden, and Mussina.

Interrogatory first: Do you know the parties to this cause, or any, and whom of them?

Interrogatory second: Do you hold any office under and by authority of the State of Texas; if yea, what office, and what records or books belonging to such office are in your custody or under your control?

Interrogatory third: Are you, or not, the surveyor of the land or surveyor's district embracing the County of Nueces? If yea, are any books, papers, or records, formerly belonging to your predecessor, or any former surveyor, now in your possession or under your control? If yea, what?

Interrogatory fourth: Are there in your possession or custody any certificates belonging to or purporting to belong to Charles Stillman, one of the defendants, as assignee thereof? And are there or are there not in your possession the original field notes made upon any surveys of or on such certificates? And are there any and what evidences in said office or under your control, of any survey or surveys made by, or purporting to have been made by George Lyon, a Deputy Surveyor of the District of San Patricio and Nueces in or during the year 1848, of or upon any land now embraced in or near the town site of Brownsville, in the county of Cameron, in Texas? if yea, set forth and state the same at large.

Interrogatory fifth. Have you or have you not under your custody and in your possession the original field notes and plats of survey made upon the locations of the following named certificates: A certificate issued to David Snively for three hundred and twenty acres of land; a certificate issued to J. W. B. McFarlane for one-third of a league of land; a certificate issued to Estevan Villareal for 1280 acres of land; a certificate issued to Jacob Snively for nine hundred and sixty acres of land; also a certificate issued to Sabas Medrano for acres of land, said locations having been made in the year 1848, and for Charles Stillman, as assignee of said certificates; and have you, or not, said original certificates? If yea, annex the same, together with all original field notes, to your answer to these interrogatories.

Interrogatory sixth: Have you, or not, in your possession, custody,

or control, any or some certificates, purporting to have been assigned to and held by Charles Stillman, one of these defendants, for land, and purporting to have been located on a portion of land in the County of Cameron, and on or near the present site of the town of Brownsville? And have you, or not, the original field notes and plats of survey made upon some such locations or surveys? If yea, set forth the same, and attach said originals to your answers, or state the reason why you cannot do so.

Interrogatory seventh, and last: Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

OVID F. JOHNSON and J. A. SWETT,
*Solicitors for Defendants, Charles Stillman,
Samuel A. Belden, and Jacob Mussina.*

UNITED STATES DISTRICT COURT,
District of Texas.

I, James Love, Clerk of the District Court of the United States for the District of Texas, hereby certify that the above and before written is a true copy of the original interrogatories in my office. Given under my hand, this 26th day of October, A. D. 1850.

JAMES LOVE,
Clerk.

[Commission.]

The President of the United States of America to any Notary Public in the County of Nueces, greeting:

Know ye that I, in consequence of your prudence and fidelity, have appointed and by these presents do give unto you (and each of you) full power and authority diligently to examine all witnesses whatsoever upon certain interrogatories to be exhibited to you in a cause now depending and at issue in chancery, in the District Court of the United States for the District of Texas, wherein Don Rafael Garcia Cavazos *et als.* are complainants, and Charles Stillman and others are defendants; and therefore I command that one of you do, at certain days and places to be appointed for that purpose, cause the witnesses to be named in the title to said interrogatories, or such of them as shall be delivered to you, to come before you, and then and there examine them apart upon the said interrogatories, either on their respective corporal oaths first taken before you on the Holy Evangelists, or, in case of quakers, upon their solemn affirmation and declaration, or in such other solemn manner as is or may be authorized by law, and that you do take such their examinations and reduce them into writing; and when you shall have so taken them, you are to send the same to the Clerk of the above named Court without delay whatsoever; it shall be closed up, and under your seal

distinctly and plainly set, together with the said interrogatories and this writ. And I further command you that, before you act or be present at the swearing or examining any witness or witnesses, you do take and subscribe the oath specified in the schedule hereunto annexed, before a Commissioner of the United States or a Judge of some Court of record.

Witness the Honorable John C. Watrous, Judge of the District Court of the United States for the District of Texas, and seal of the said Court, this 26th day of October, A. D. 1850, and of the Independence of the United States the 75th year.

[SEAL.]

JAMES LOVE,
Clerk.

[Oath.]

I will, according to the best of my skill and knowledge, truly, faithfully, and without partiality to any or either of the parties in this cause, take the examinations and depositions of all and every witness and witnesses produced and examined by virtue of the commission annexed, upon the interrogatories delivered to me, and I will not publish, disclose, or make known to any person or persons whatsoever the contents of all or any of the depositions of the witness or witnesses, or any of them, taken by me, until publication shall pass pursuant to some general or special order of the Court wherein the same are taken. So help me God!

H. A. GILPIN.

Subscribed and sworn to, this 16th day of January, A. D. 1851, before me.

JOHN M. COOPER,
Justice of the Peace, N. C.

[Deposition.]

STATE OF TEXAS,
County of Nueces.

I, H. A. Gilpin, Chief Justice and *ex officio* Notary Public, duly and regularly commissioned as such, in and for the county aforesaid, do hereby certify that by virtue of the power and authority in me vested by virtue of the Writ of Commission (hereto attached) issued by the District Court of the United States for the District of Texas, on the 26th day of October, A. D. 1850, in a case depending and at issue in Chancery in the said District Court, wherein Don Rafael Garcia Cavazos *et al.* are complainants, and Charles Stillman and others are defendants, I did, on this sixteenth day of January, A. D. 1851, cause to come before me as aforesaid as Notary Public, at my office in the Town of Corpus Christi, in the said County of Nueces, Felix A. Blucher, known to me to be the same person named in said interrogatories also hereto attached, and did then and there, upon his corporal oath first taken before me upon the Holy Evangelists, exam-

ine him upon the said interrogatories, the answers to which were then and there reduced by me to writing as follows, to wit:

To the first interrogatory the said witness answers and says: That he knows Richard Fitzpatrick, and is slightly acquainted with Charles Stillman, having seen him but once some years ago.

To the second interrogatory the witness answers and says: That he is District Surveyor for Nueces District, comprising the counties of Nueces, San Patricio, Cameron, Starr, and Webb, and that all the books and records and documents by law belonging to a District Surveyor's office are in his custody, and under his control and charge.

To the third interrogatory the said witness answers and says: That he is the Surveyor of the District embracing Nueces County, and that all the books of record and all the papers on file executed by his predecessors in office are now in his possession and under his control. They consist of the Record Books, containing all the field notes of the surveys made and properly returned within his district. The Entry Book, containing all the entries for locations of lands within the same. All the applications made for locations filed, together with all the land certificates, land warrants, and land scrip deposited by the several applicants to cover their locations.

In answer to the fourth interrogatory witness answers and says: That there are in his custody eight certificates deposited by Charles Stillman, of which the certified copies, marked *C*, *D*, *E*, are hereto attached, together with the certified copies of the application made by Charles Stillman, and dated Brownsville, August 15, 1848, with the object to locate the tract of land partly occupied by the Town of Brownsville, as will appear by reference to the sheets marked *A* and *B*; that there are not in his possession any original field notes of surveys made by virtue of these said certificates; that there are recorded in the several books of record belonging to his office five sets of field notes made by George Lyon, Deputy Surveyor of the District of San Patricio and Nueces, made in November and December, 1848, on and near the town site of Brownsville, in Cameron County, in Texas, as will more fully appear by reference to the certified copies of the same, hereto attached, marked *F*, *G*, and *H*.

In answer to the fifth interrogatory witness answers and says: That he has not.

In answer to the sixth interrogatory witness answers and says: That this interrogatory has already been answered in his answer to the fourth interrogatory.

In answer to the seventh interrogatory witness answers and says: That by reference to the Entry Book kept in his office it appears that several locations have been made by David Snively, and one by Charles Stillman, of which a certified copy is hereto attached, marked *J*. There is also a location of a later date than D. Snively's for three hundred and twenty acres, in the name of P. Shannon, and one also of later date made for Asa Wheeler, by virtue of a certificate issued to J. Baxter, which last certificate has been surveyed above and adjoining the survey made in the name of J. W. B. McFarlane, which said certificate was assigned to David Snively by the said McFarlane, and by him to Charles Stillman, and that he does not know any other

matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this his examination, or the matters in question in this cause.

FELIX A. BLUCHER,
Surveyor of the District of Nueces.

THE STATE OF TEXAS,
County of Nueces.

I, H. A. Gilpin, Chief Justice and ex-officio Notary Public in and for the county aforesaid, do hereby certify that on the 16th day of January, A. D. 1851, Felix A. Blucher, Surveyor of the District of Nueces, did swear and subscribe to before me the foregoing interrogatories as answered by him.

In witness whereof, I have hereto set my hand and affixed the seal of the County of Nueces, at Corpus Christi, this sixteenth day of January, A. D. 1851.

[SEAL.]

H. A. GILPIN,
C. J. N. C.

C.

THE STATE OF TEXAS,	}	320 acres.	{ No. 398.
<i>County of Galveston.</i>			

John Chubb this day appeared before the board of land commissioners of the county aforesaid, and made proof in accordance with law that he arrived in the late Republic of Texas in October, 1839, and has been a permanent resident of said Republic for more than three years, and performed all the duties required of him as a citizen; and not having heretofore received the quantity of land he is entitled to, and being at the time of his immigration a single man, he is entitled to an unconditional grant of three hundred and twenty acres of land.

[COUNTY SEAL] Given under our hands, this 27th day of October,
GALVESTON CO.] A. D. 1847.

(Signed)

A. F. JAMES,
*Chief Justice and ex-officio President of the
Board of Land Commissioners.*

A. C. CRAWFORD,
E. LEWIS,
Associates.

Attest: (Signed)

OSCAR FARISH,
Clerk and ex-officio Clerk of Board of Land C.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, certify, under my official oath, the foregoing to be a true copy of the headright certificate No. 398, filed in the surveyor's office of

this district, with the application of Charles Stillman, on the 15th August, 1848. The said certificate is now on file in this office.

Given under my hand, at Corpus Christi, this 16th day of January, A. D. 1841.

[SEAL.]

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

STATE OF TEXAS, }
County of Bexar. }

640 acres.

{ No. 458.
2d Class.

This is to certify that Francisco Guzman has appeared before us, the board of land commissioners for said county, and proved according to law that he arrived in this State previous to the first of October, 1837, and that he is a single man, and has resided in the same three years, and performed all the duties required of him as a citizen; and never having received a certificate for the quantity of land now applied for, he is entitled to six hundred and forty acres of land.

[COUNTY SEAL] Given under our hands and the seal of the County
BEXAR CO.] Court, this 9th day of September, 1847.

(Signed)

THOMAS WHITHEAD,
*Chief Justice and ex-officio President
B'd L'd Comm'rs B. C.*

LOUIS HUTH,
WILHELM SMALL,
Comm'rs.

Attest: (Signed)

THOS. H. O'S. ALDRICKS,
Clerk C. C. B. C. ex-off. Clerk B. L. Comm's.

By BEN. E. EDWARDS,
Deputy.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do hereby certify, under my official oath, the foregoing to be a true copy of headright certificate No. 458, 2d Class, filed and now on file with the application made by Charles Stillman, on the 15th of August, 1848, to the surveyor of this district.

Given under my hand, this 16th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of San Patricio and Nueces.

STATE OF TEXAS, }
County of Galveston. }

640 acres.

{ No. 251.
2d Class.

This is to certify that Michael Judd has appeared before us, the board of land commissioners for the County of Galveston, and proved according to law that he emigrated to Texas in the month of April, A. D. 1835; that he resided in and was an actual citizen of said Republic three years, and performed all the duties required of him as a citizen; that he is a single man, and has never heretofore obtained a certificate or headright for land. He is, therefore, entitled to an un-

conditional grant for six hundred and forty acres of land, in accordance with an act of Congress, approved January 16th, A. D. 1843.

[COUNTY SEAL Given under our hands, at City of Galveston, the GALVESTON CO.] 24th day of October, A. D. 1846.

(Signed)

A. F. JAMES,
*Chief Justice ex-off. Presid't
Board Land Comm'rs.*

A. C. CRAWFORD,
E. LEWIS,
Associates.

Test :

WILLIAM H. SANDUSKY,
*Deputy Clerk of the County Court of Galveston County
and ex-off. Clerk of the Board of Land Comm'rs.*

I, Felix A. Blucher, Surveyor of the District of San Patricio and Nueces, do certify, under my official oath, the foregoing to be a true copy of the headright certificate No. 251, 2d Class, filed and now on file with the application made by Charles Stillman, on the 15th of August, 1848, to the surveyor of this district.

Given under my hand, at Corpus Christi, this 16th of January, 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

STATE OF TEXAS, }
County of Bexar. }

640 acres.

{ No. 388.
{ 2d Class.

This is to certify that Juan Rodriguez Montemayor has appeared before us, the board of land commissioners for the County of Bexar, and proved according to law that he arrived in this Republic previous to the first day of October, 1837, that he is a single man, and has resided in the same three years, and performed all the duties required of him as a citizen; and never having received a certificate for the quantity of land for which he applies, he is entitled to six hundred and forty acres of land.

[C. SEAL.] Given under our hands, at the City of San Antonio, this 12th day of July, A. D. 1847.

(Signed)

THOMAS WHITHEAD,
*Chief Justice and ex-officio President of the
Board of Land Commissioners.*

JAMES B. LEE,
WILLIAM SMALL,
Commissioners.

Attest: (Signed)

THOS. H. O'S. ALDRICKS,
*Clerk C. C. and ex-officio Clerk Board
Land Commissioners.*

By BEN. E. EDWARDS, *Deputy.*

Given under my hand, at Corpus Christi, this 16th day of January,
A. D. 1851.

In Chancery.

16th January, A. D. 1851.

In witness whereof, I have hereto set my hand and the seal of the County of Nueces, at Corpus Christi, the day and date first above written.

H. A. GILPIN.

H. A. GILPIN,
C. J. N. C.

D.

320 acres.

{ No. 295.
{ 4th Class.

This is to certify that Antonio Garza, Jr., has appeared before us, the board of land commissioners for the county aforesaid, and proved according to law that he arrived in this Republic previous to the first day of January, A. D. 1842, and that he is a single man, and has resided in the same three years, and has performed all the duties required of him as a citizen; and having never received a certificate for the quantity of land for which he applies, he is entitled to three hundred and twenty acres of land.

[SEAL.] Given under our hands, at San Antonio, this 6th day of April, A. D. 1847.

(Signed)

THOMAS WHITHEAD,
*Chief Justice and ex-officio President of the
Board of Land Commissioners.*

LOUIS HUTH,
J. H. BROWN,
Commissioners.

Attest : (Signed)

THOS. H. O'S. ALDRICKS,
*Clerk C. C., ex-officio Clerk Board
Land Commissioners.*

By BEN. E. EDWARDS, *Deputy.*

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of headright certif. No. 295, 4th class, filed and now on file with the application made by Charles Stillman, on the 15th of August, 1848, to the surveyor of this district.

Given under my hand, at Corpus Christi, this 16th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, &c.

REPUBLIC OF TEXAS, } Class 4th.
County of Galveston. } No. 136.

This is to certify that Francis Bartolomis has appeared before us, the Board of Land Commissioners for the county aforesaid, and proved according to law that he emigrated to this county previous to the 1st of October, 1837; that he has been an actual citizen of this Republic for more than three years, and done and performed all the duties required of him as a citizen, and that he is a single man, and entitled to an unconditional grant of six hundred and forty acres of land, in accordance with an act approved January 10th, A. D. 1843, he having proved that he had never heretofore obtained a certificate for any land.

[COUNTY SEAL Given under our hands, at the city of Galveston,
GALVESTON CO.] this 13th day of October, 1845.

(Signed)

JOHN S. JONES,
*Chief Justice and ex-officio President
Board Land Commissioners.*

(Signed)

J. W. MOORE,
Associate.

Attest: (Signed)

OSCAR FARISH,
*Clerk Galveston County Court and ex-officio
Clerk of the Board of Land Commissioners.*

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the original headright certif. No. 136, 4th Class, filed and now on file with the application made by Charles Stillman, on the 15th day of August, A. D. 1848, to the Surveyor of this District.

Given under my hand, this 16th day of January, A. D. 1851, at Corpus Christi.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, &c.

THE STATE OF TEXAS, } No. 846.
Harris County. } Class 2nd.

One-third of a league.

We, the undersigned, a Board of Land Commissioners for the county aforesaid, do hereby certify that John B. Forx appeared before us, and proved according to law that he emigrated to Texas previous to the 1st of August, 1836; served in the army of Texas prior

to that time, and was honorably discharged: he made oath that he had never received from any Board of Land Commissioners in Texas a certificate of headright; this is therefore to declare that the said John B. Forx is entitled to an unconditional headright of one-third of a league of land, by virtue of his emigration and service in the army aforesaid.

[COUNTY SEAL Given under our hands, this second of August,
HARRIS CO.] A. D. 1847.

(Signed)

W. B. REEVES,
Chief Justice and ex-off. Presid't
Board L'd Commissioners.

JOHN W. FOGG,
JOHN W. BERGER,
Associates.

Attest: (Signed)

W. R. BAKER,
Clerk Harris Co., and ex-officio Clerk of the
Board of Land Commissioners.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of headright certif. No. 846, 2nd class, filed and now on file with the application made by Charles Stillman, on the 15th of August, A. D. 1848, to the Surveyor of this District.

Given under my hand, at Corpus Christi, this 16th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Pat.

REPUBLIC OF TEXAS, } No. 79.
County of Montgomery. } Fourth Class.

Conditional.

This is to certify that Henry H. Wheeler has appeared before us, the Board of Land Commissioners for the county aforesaid, and proved according to law that he arrived in this Republic in November, (1840) eighteen hundred and forty; that he is the head of a family, and never having received a certificate for the quantity of land for which he applies, is entitled to a conditional grant of six hundred and forty acres of land, in accordance with an act of Congress approved 4th of January, 1841, and a supplementary act approved 4th of February, 1842.

[SEAL.] Given under our hands, at the town of Montgomery, this
second day of May, 1842.

(Signed)

HUGH MCGUFFIN,
Chief Justice and ex-officio President
Board Land Commissioners.

(Signed)

ELISHA UZZELL,
Associate.

Attest: (Signed)

WM. H. FOWLER,
Clerk County Court, and ex-officio Clerk
of the Board of Land Commissioners.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do hereby certify, under my official oath, the foregoing to be a true copy of the conditional headright certificate No. 79, 4th Class, filed and now on file with the application made by Charles Stillman, on the 15th of August, 1848, to the Surveyor of this District.

Given under my hand, at Corpus Christi, this 16th day of January, A. D. 1851.

FELIX A. BLUCHER,
*Surveyor of the District of
Nueces and San Pat.*

RAFAEL GARCIA CAVAZOS *et al.* }

vs.

CHARLES STILLMAN *et al.* }

In Chancery.

16th January, A. D. 1851.

This paper was produced by me to the witness Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I hereunto set my hand and the seal of the county of Nueces, the day and date first above written.

[SEAL.]

H. A. GILPIN,
C. J. N. C.

E.

County Court, July Term, A. D. 1847.

THE STATE OF TEXAS, } No. 15.
Grimes County. } 4th Class.

This is to certify that Henry H. Wheeler appeared before us, the Board of Land Commissioners for the County of Grimes, and proved according to law that he is entitled to an unconditional headright certificate for two hundred and forty acres of land, according to an act entitled an act to extend to late emigrants, or those who may emigrate within a specified time, a donation of land. Approved 4th January, 1841, and supplementary act approved 4th February, 1842.

Given at our hands, at the town of Alta Mira, this 12th day of July, A. D. 1847.

[SEAL.]

(Signed)

(Signed)

(Signed)

J. B. CAMP,

A. B. DODSON,

G. G. PEARSON,

County Commissioners.

Attest:

(Signed)

DANIEL E. HARPER,

Clerk C. C., and ex-officio Clerk

Board Land Comm'rs.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the unconditional headright certificate No. 15, 4th class, filed

and now on file with the application made by Charles Stillman, on the 15th August, A. D. 1848, to the Surveyor of this District.

Given under my hand, at Corpus Christi, this 16th day of January,
A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, &c.

RAFAEL GARCIA CAVAZOS *et al.*
vs.
 CHARLES STILLMAN *et al.*

In Chancery.

This paper was produced by me to the witness Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I have hereto set my hand and the seal of the County of Nueces, at Corpus Christi, the day and date above written.

[SEAL.]

H. A. GILPIN,
C. J. N. C.

A.

TO JACOB SNIVELY, Surveyor to the District of San Patricio.

Dear Sir: You will please survey, or cause to be surveyed by one of your lawful deputies, three hundred and twenty acres of land, by virtue of certificate No. 398, (three hundred and ninety-eight,) (4th) fourth class, for three hundred and twenty acres of land, issued to John Chubb by the Board of Land Commissioners for the county of Galveston, Texas, on the 27th day of October, 1847, to be located and surveyed, beginning at a point on the left bank of the Rio Grande, one hundred yards below Fort Brown, to run up the river for front and back for quantity, as the law directs.

(Signed)

CHARES STILLMAN.

BROWNSVILLE, August 15th, 1848.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath, the foregoing to be an exact copy of an application made by Charles Ctillman, and filed with the application in the surveyor's office of this District. Given under my hand, at Corpus Christi, this 15th day of January, 1851.

FÉLIX A. BLUCHER,
*Surveyor of the District of
Nueces and San Patricio.*

To Mr. JACOB SNIVELY, Surveyor of the District of San Patricio.

Dear Sir: You will please survey, or cause to be surveyed by one of your legal deputies, six hundred and forty acres of land by virtue of certificate No. 458, four hundred and fifty-eight, second class, issued to Francisco Guzman by the Board of Land Commissioners for the County of Bexar, ninth day of September, 1847, beginning at the northeast corner of the survey to be made for Charles Stillman, by

virtue of certificate No. (398) three hundred and ninety-eight, issued to John Chubb by the Board of Land Commissioners of the County of Galveston, for (320) three hundred and twenty acres; thence to run survey with the back line of the aforesaid to its intersection with survey to be made for Charles Stillman by virtue of certificate No. (251) two hundred and fifty-one, issued to Michael Judd by the Board of Land Commissioners for Galveston County, for (640) six hundred and forty acres; thence N. 45° E. with the side line of the aforesaid to the N. E. corner of the survey made by virtue of certificate No. 251, issued to Michael Judd, for 640 acres; thence with the back line to its N. W. corner; thence back to make it as near square as the case will admit to include six hundred and forty acres. Brownsville, August 15th, 1848.

(Signed)

CHARLES STILLMAN.

I, Felix A. Blucher, Surveyor of the District of San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the application made in the surveyor's office in this district. Witness my hand, at Corpus Christi, 15th January, 1851.

FELIX A. BLUCHER,
*Surveyor of the District of
Nueces and San Patricio.*

To Mr. JACOB SNIVELY, Surveyor of the District of San Patricio.

Dear Sir: You will please survey, or cause to be surveyed by one of your legal deputies, six hundred and forty acres of land, by virtue of certificate No. (251) two hundred and fifty-one, class second, issued to Michael Judd by the Board of Land Commissioners of the County of Galveston, 24th day of October, 1846, to be surveyed, beginning at the upper end of a survey to be made for Charles Stillman by virtue of certificate No. (398) three hundred and ninety-eight, issued to John Chubb by the Board of Land Commissioners of the County of Galveston, running up the river for front and back for quantity, as the law directs. Brownsville, August 15th, 1848.

(Signed)

CHARLES STILLMAN.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the applications made in the surveyor's office of this district. Given under my hand, at Corpus Christi, this 16th day of January, 1851.

FELIX A. BLUCHER,
District Surveyor, &c.

To Mr. JACOB SNIVELY, District Surveyor of the District of San Patricio.

Dear Sir: You will please to survey, or cause to be surveyed by one of your legal deputies, six hundred and forty acres of land, by virtue of certificate No. (388) three hundred and eighty-eight, second class, issued to Juan Rodriguez Montemayor by the Board of Land Com-

missioners of Bexar County, on the 14th day of July, 1847, beginning at the upper corner on the left bank of the Rio Grande, and to be surveyed above and adjoining the survey to be made for Charles Stillman by virtue of a certificate No. (251) two hundred and fifty-one, issued to Michael Judd by the Board of Land Commissioners of Galveston County for six hundred and forty (640) acres, running up the river for front and back for quantity, as the law directs. Brownsville, August 15th, 1848.

(Signed)

CHARLES STILLMAN.

I, Felix A. Blucher, Surveyor of the District of San Patricio and Nueces, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the applications in the surveyor's office in this district. Given under my hand, at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER.

Surveyor of San Patricio and Nueces District.

RAFAEL GARCIA CAVAZOS *et al.*

vs.

CHARLES STILLMAN *et al.*

} In Chancery.

16th January, A. D. 1851.

This paper was produced by me to the witness Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I have hereto set my hand and the seal of the County of Nueces, at Corpus Christi, the day and date first above written.

[SEAL.]

H. A. GILPIN,
C. J. N. C.

B.

To Mr. JACOB SNIVELY, Surveyor of the District of San Patricio.

Dear Sir: You will please survey, or cause to be surveyed by one of your legal deputies, (320) three hundred and twenty acres of land, by virtue of certificate issued to Antonio Garza by the Board of Land Commissioners of Bexar County, April 6th, 1847, beginning at the upper corner of a survey to be made for Charles Stillman on the left bank of the Rio Grande, by virtue of certificate No. (388) three hundred and eighty-eight, issued to Juan Rodriguez Montemayor by the Board of Land Commissioners of Bexar County, for (640) six hundred and forty acres, running with the upper side line of the aforesaid Montemayor, and a survey to be made for Charles Stillman by virtue of certificate No. (15) fifteen, issued to Henry M. Wheeler by the Board of Land Commissioners of Grimes County, for six hundred and forty, its upper or southwest corner to be the southeast corner of a survey made for Asa Wheeler, thence to run with the side line of the aforesaid Asa Wheeler.

(Signed)

CHARLES STILLMAN.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the applications in the surveyor's office of this district. Given under my hand, this 18th day of January, 1851, at Corpus Christi.

FELIX A. BLUCHER,
Surveyor of the District, &c.

To. Mr. JACOB SNIVELY, Surveyor of the District of San Patricio.

Dear Sir: You will please survey, or cause to be surveyed by one of your legal deputies, six hundred and forty acres of land, by virtue of certificate No. (136) one hundred and thirty-six, issued to Francis Bartolomis by the Board of Land Commissioners of the County of Galveston, the 13th day of October, 1845, beginning at the upper or southwest corner of a survey in the name of Asa Wheeler, on the left bank of the Rio Grande, thence up the river for front and back for quantity, as the law directs. Brownsville, August 15, 1848.

(Signed) CHARLES STILLMAN.

I, Felix A. Blucher, Surveyor for the District of Nueces and San Patricio, do hereby certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the applications in the surveyor's office in this district.

FELIX A. BLUCHER,
Surveyor of the District of San Patricio and Nueces.

To Mr. JACOB SNIVELY, Surveyor of the District of San Patricio.

Dear Sir: You will please survey, or cause to be surveyed by one of your legal deputies, one-third of a league of land, by virtue of certificate No. 846, class 2d, issued to John B. Fox by the Board of Land Commissioners of the County of Harris, 2d of August, 1847, to be surveyed back and adjoining the survey to be made for Charles Stillman, by virtue of certificate No. (136) one hundred and thirty six, issued to Francis Bartolomis by the Board of Land Commissioners of the County of Galveston, and back and adjoining survey to be made for Asa Wheeler; thence along the line of survey to be made for Charles Stillman by virtue of certificate No. (295) two hundred and ninety-five, issued to Antonio Garza by the Board of Land Commissioners of Bexar County, thence running along the line of survey to be made for Charles Stillman by virtue of certificate No. (15) fifteen, issued to Henry H. Wheeler by the Board of Land Commissioners for Grimes County for six hundred and forty acres, running back to the northwest for quantity, as per accompanying map. Brownsville, August 15, 1848.

(Signed) CHARLES STILLMAN.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify the foregoing to be a true copy of the application

made by Charles Stillman, and filed with the applications in the surveyor's office in this District.

Given under my hand, this 18th day of January, A. D. 1851, at Corpus Christi.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, &c.

To Mr. JACOB SNIVELY, Surveyor of the District of San Patricio.

Dear Sir: You will please survey, or cause to be surveyed by one of your legal deputies, six hundred and forty acres of land, by virtue of certificate No. 15 (fifteen,) 4th (fourth) class, issued to Henry H. Wheeler by the Board of Land Commissioners of Grimes County, the 12th day of July, 1847, beginning at the northeast corner of survey to be made for Charles Stillman, by virtue of certificate No. 388, three hundred and eighty-eight, issued to Juan Rodriguez Montemayor by the Board of Land Commissioners of Bexar County for six hundred and forty acres. Thence with the lines of surveys to be made for Charles Stillman, by virtue *virtue* of certificate 251, two hundred and fifty-one, issued to Michael Judd, No. 458, four hundred and fifty-eight, and certificate 295, two hundred and ninety-five, issued to Antonio Garza, issued to Francisco Guzman, as per accompanying map. Brownsville, August 15, 1848.

(Signed)

CHARLES STILLMAN.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the application made by Charles Stillman, and filed with the applications in the surveyor's office in this District.

Given under my hand, at Corpus Christi, this 18th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

RAFAEL GARCIA CAVAZOS *et als.* }

vs.

CHARLES STILLMAN *et als.* }

In Chancery.

16th January, A. D. 1851.

This paper was produced by me to the witness, Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I have hereto set my hand and the seal of the County of Nueces, at Corpus Christi, the day and date first above written.

[SEAL.]

H. H. GILPIN,
C. J. N. C.

F.

STATE OF TEXAS,

District of Nueces and San Patricio.[See original,
page 1860.]

Survey for Charles Stillman, assignee of David Snively, assignee of J. W. B. McFarlane, of 8.038970 $\frac{1}{3}$ square varas of land, situated on the N. E. side of the Rio Grande, including a part of the town of Brownsville, in the County of Cameron, being a part of the land to which he is entitled by virtue of headright certificate No. 111, issued by the Board of Land Commissioners for the County of Victoria on the 6th of September, A. D. 1838, beginning at a stake and mound on the bank of the Rio Grande, near the lower or S. E. corner of a survey in the name of J. Baxter, (the old corner of said survey having washed in for the S. W. corner of this survey;) thence N. 45° E. with the survey aforesaid, at 2389 varas passed the N. E. corner of the survey of said J. Baxter, continued N. 45° E. at 2640 varas to a resaca 480 varas wide, 3800 varas to a road leading from Brownsville to Point Isabel, 4470 varas to a resaca 80 varas wide, at 5217 varas set post for the N. W. corner, whence an ebony marked + bears S. 80° E. 14 varas, ebony + S. 38° E. 20 varas; thence S. 45° E. 102 varas to a resaca 30 varas wide, at 1444 varas set post for the N. E. corner, whence a mesquite marked + bears S. 55° 30' W. 36 varas; also a mesquite marked + S. 76° W. 24 varas; thence S. 45° W. at 1769 varas passed the N. W. corner of a survey in the name of David Snively 2600 varas to a resaca 222 varas wide, 4437 varas to the bank of the Rio Grande, set stake and mound on the levee of the town of Brownsville for the S. E. or lower corner; thence up with the meanders of the Rio Grande in front of Matamoras, Mexico, N. 49° 30' W. 104 varas, S. 36° 15' W. 1220 varas, S. 25° 30' W. 460 varas to the N. E. corner of a labor grant made to Cabazos by the corporation of Matamoras, Mexico, and since transferred to P. C. Shannon, set stake and mound; thence with the fence of said labor across the bend of the Rio Grande N. 20° W. 255 varas, N. 8° W. 147 varas, N. 25° W. 95 varas, N. 70° W. 110 varas, S. 60° W. 52 varas, N. 84° W. 177 varas to the bank of the Rio Grande, a large mesquite post marked + for corner; thence up with the meanders of the Rio Grande N. 42° E. 33 varas, N. 21° E. 660 varas, N. 2° 30' W. 370 varas, N. 34° 15' W. 370 varas, N. 80° 30' W. 130 varas, to the place of beginning. This survey contains all arable land.

GEORGE LYON,

*Deputy Surveyor of the District of Nueces
and San Patricio.*

SAMUEL GOLSTON, }
SANTIAGO CASSUS, } *Ch. C.*

I, George Lyon, Deputy Surveyor of the District of San Patricio and Nueces, do solemnly swear, under my official oath, that the survey designated in the foregoing plot and field notes was made by me

on the 6th day of November, 1848 ; and that the lines, boundaries, and corners, together with the marks, natural and artificial, are truly designated therein.

Witness my hand this 1st day of February, 1849.

GEORGE LYON,
Deputy Surveyor.

Recorded 28th February, 1849.

J. SNIVELY,
Surveyor.

Corpus Christi, January 15, 1851.

I, Felix A. Blucher, Surveyor of the District of San Patricio, do certify, under my official oath, the foregoing to be a true copy of the records of the Surveyor's office of this District, as recorded in Book A, No. 3, pages 117 and 118.

FELIX A. BLUCHER.

RAFAEL GARCIA CAVAZOS *et al.* }

vs.

CHARLES STILLMAN *et al.* }

In Chancery.

16th January, A. D. 1851.

This paper was produced by me to the witness, Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof, I have hereto set my hand and seal of the County of Nueces, the day and date first above written.

[SEAL.]

H. A. GILPIN,
C. J. N. C.

G.

STATE OF TEXAS,

District of Nueces and San Patricio.

[See original, page 1863.] Survey for Charles Stillman, as assignee of David Snively, for three hundred and twenty acres of land, situated on the N.E. side of the Rio Grande, including a part of the town of Brownsville, in the county of Cameron, being the quantity of land to which he is entitled by virtue of certificate No. 39, issued by the Board of Land Commissioners for the county of Nueces on the 31st day of January, 1848, beginning on the bank of the Rio Grande, at the lower or S.E. corner of a survey in the name of J. W. B. McFarlane, of whom Charles Stillman is the assignee; thence N. 45° E. with the survey aforesaid 1560 varas to a resaca 222 varas wide, at 2648 varas set post for N.W. corner, whence an ebony marked + bears S. 57° W. 13 varas, also an ebony marked + bears S. 70° E. 21 varas; thence S. 45° E. 70 varas to a lake 30 varas wide, 460 to a road leading from Brownsville to Brazos San-

tiago, at 672 varas set a post for the N.W. corner, whence a mesquit marked + bears N. 43° W. 9 varas; thence S. 45° W. 800 varas to a resaca 200 varas wide, 2085 varas to a bend of a lake thus ((2337, crossed said lake 2833 varas to the bank of the Rio Grande, set post for the S.E. corner; thence up with the meanders of the Rio Grande N. 16° 30' W. 439 varas, N. 49° 30' W. 290 varas to the place of beginning.

GEORGE LYON,
Deputy Surveyor.

SAMUEL GOSLTON, } *Ch. C.*
SANTIAGO CASSUS, }

I, George Lyon, Deputy Surveyor of the District of Nueces and San Patricio, do solemnly swear, under my official oath, that the survey designated in the foregoing plat and field notes was made by me on the 8th day of November, 1848, and that the lines, boundaries, and corners, together with the marks, natural and artificial, are truly described therein. Witness my hand this 23d day of November, 1848.

GEORGE LYON,
Deputy Surveyor.

I, Jacob Snively, Surveyor, &c., do certify that I have examined the foregoing plat and field notes, and find them correct, and the survey made according to law. Given under my hand at Corpus Christi, this 10th January, 1849.

J. SNIVELY,
Surveyor of the District, &c.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath, the foregoing to be a true copy of the records of the Surveyor's office of this district, as recorded in book *H*, on pages 35 and 36. Given under my hand at Corpus Christi, this 15th January, 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

STATE OF TEXAS,
District of Nueces and San Patricio.

[See original, Survey for Charles Stillman, assignee of J. Snively, page 1865.] of 960 acres of land, situated on the N.E. side of the Rio Grande, about one $\frac{1}{2}$ miles below the town of Brownsville, in the County of Cameron, being the balance of land to which he is entitled by virtue of land warrant No. $\frac{533}{2}$, issued by the Commissioners of the General Land Office on the 6th day of April, 1847. Beginning on the bank of the Rio Grande, at the lower or S.E. corner of a survey in the name of Estevan Villareal, of whom Charles Stillman is the assignee. Thence N. 45° E. with the survey aforesaid 3100 varas to a resaca 50 varas wide; at 3871 varas passed the N.E. corner of the survey aforesaid; at 4659 varas set post for N.W. corner, whence a mesquite marked + bears N. 44° E. 5

varas, also a mesquite marked + bears S. 86° E. 7 varas. Thence S. 45° E. at 1143 varas set post for the N.E. corner, whence a mesquite marked + bears S. 69° E. 10 varas, also a mesquite marked + bears N. 13° W. 2 varas. Thence S. 45° W. 1470 varas to a resaca 50 varas wide, bearing N.W. 4709 varas to the bank of the Rio Grande; set post for the S.E. or lower corner, whence a tapuraya marked + bears N. 48 E. 100 vrs., also an ebony marked + bears N. 89° E. 110 varas. Thence up with the meanders of the Rio Grande, N. 12° W. 300 varas, N. 22° W. 240 varas, N. $60^{\circ} 45'$ W. 740 varas to the place of beginning.

GEORGE LYON,
Dep. Surveyor.

SAMUEL GOLSTON, } *Ch. C.*
SANTIAGO CASSUS, }

Surveyed on the 1st December, 1848. Recorded on the 31st January, 1849.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath, that the foregoing is a true copy of the field notes on record in the Surveyor's office of this district, as recorded in book C, on page No. 163. Given under my hand at Corpus Christi, this 15th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

RAFAEL GARCIA CAVAZOS *et al.* }
vs. }
CHARLES STILLMAN *et al.* }

In Chancery.

16th January, A. D. 1851.

This paper was produced by me to the witness, Felix A. Blucher, on his examination, and by him duly examined and sworn to, as a true copy of the records of his office.

In witness whereof, I hereto set my hand and affix the seal of Nueces County, Corpus Christi, the day and date above written.

[SEAL.]

H. A. GILPIN,
C. J. N. C.

H.

STATE OF TEXAS,

District of Nueces and San Patricio.

[See original, Survey for Charles Stillman, assignee of David page 1867.] Snively, assignee of Sabas Medrano, of 640 acres of land, situated on the N. E. side of the Rio Grande, about $\frac{1}{2}$ mile below the town of Brownsville, in the County of Cameron, being the quantity of land to which he is entitled by virtue of certificate No. 18, issued by the Board of Land Commissioners for the County of Nueces, on the 10th of January, A. D. 1848, beginning on

the bank of the Rio Grande, at the lower or S. E. corner of a survey in the name of David Snively, of whom Charles Stillman is the assignee. Thence N. 45° E. with the survey aforesaid 476 varas, to a bend in the lake, thus)) ; at 748 varas left said bend 1833 varas, to a resaca 200 varas wide ; at 2833 varas, passed the N. E. corner of the survey aforesaid ; at 3087 varas, set stake for the N. W. corner, whence a mesquite marked + bears S. 41° W. 10 varas, mesquite marked + bears S. 11° E. 7 varas. Thence S. 45° E. at 1078 varas, set stake for the N. E. corner, whence a mesquite marked + bears N. 74° W. 6 varas, also an ebony marked + bears S. 35° W. 8 varas. Thence S. 45° W. 10 varas, to a resaca 140 varas wide, 842 varas to a bend of a resaca, thus)) ; at 1522 left bend of the resaca 3812 varas to the bend of the Rio Grande ; set stake and mound for the S. E. corner. Thence up with the meanders of the Rio Grande, N. 51° W. 210 varas, N. 14° W. 153 varas, N. $3^{\circ} 15'$ W. 422 varas, N. 2° W. 500 varas, N. $16^{\circ} 30'$ W. 41 varas, to the place of beginning.

GEORGE LYON,
Deputy Surveyor.

SAMUEL GOLSTIEN, } *Ch. C.*
SANTIAGO CASSUS, }

I, George Lyon, Deputy Surveyor of the District of Nueces and San Patricio, do solemnly swear, under my official oath, that the survey designated in the foregoing plat and field notes was made by me on the 22d day of November, 1848, and that the lines, boundaries, and corners, together with the marks, natural and artificial, are truly described therein. Witness my hand this 22d day of November, 1848.

GEORGE LYON,
Deputy Surveyor.

I, Jacob Snively, Surveyor, &c, do certify that I have examined and recorded the above field notes, on the 10th of January, 1849. Given under my hand at Corpus Christi, 10th January, 1849.

J. SNIVELY,
Surveyor, &c.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify, under my official oath that the foregoing is a true copy from the records of the Surveyor's office of this district, as recorded in book *H*, on pages 33 and 34. Given under my hand at Corpus Christi, this 15th January, 1851.

FELIX A. BLUCHER,
*Surveyor of the District of Nueces
and San Patricio.*

STATE OF TEXAS,
District of Nueces and San Patricio.

[See original, Survey for Charles Stillman, the assignee of David
page 1869.] Snively, assignee of Estevan Villareal, for 1280 acres
of land situated on the N. E. side of the Rio Grande,
about one mile below Brownsville, in the County of Cameron, being

the quantity of land to which he is entitled by virtue of certificate No. 36, issued by the Board of Land Commissioners for the County of Nueces, on the 21st of January, 1848, beginning on the bank of the Rio Grande, at the lower or S. E corner of a survey in the name of Sabas Medrano, of whom Charles Stillman is the assignee. Thence N. 45° E. with the aforesaid survey 2390 varas, to a bend of a resaca, thus $\cup$), 580 varas across said land at 3490 varas, to a resaca bearing N. W. 140 varas wide, at 3690 varas passed the N. W. corner of the survey aforesaid, 6170 varas, to a resaca 50 varas wide, running N. W.; at 6337 varas set a post for the N. W. corner, whence an ebony marked $+$ bears S. 96° W. 13 varas. Thence S 45° E. 170 varas, to a resaca 30 varas wide, running N. E. 660 varas, to a resaca 50 varas wide; at 1340 varas set post for the N. E. corner, whence a mesquite marked $+$ bears S. 87° W. 13 varas. Thence S. 45° W. 700 varas, to a resaca 50 varas wide, 3871 varas to the bank of the Rio Grande, set a post and mound for S. E. corner. Thence up with the meanders of the Rio Grande, N. $60^{\circ} 45'$ W. 55 varas, S. $30^{\circ} 30'$ W. 470 varas, S. 57° W. 110 varas, S. $25^{\circ} 30'$ W. 860 varas, S. $49^{\circ} 15'$ W. 390 varas, S. $74^{\circ} 45'$ W. 180 varas, S. 61° W. 50 varas, West 230 varas, N. 50° W. 190 varas, N. $25^{\circ} 30'$ E. 200 varas, N. $46\frac{1}{2}^{\circ}$ E. 850 varas, N. $10\frac{1}{3}^{\circ}$ E. 500 varas, N. $41^{\circ} 15'$ W. 480 varas, N. $67^{\circ} 30'$ W. 310 varas, S. 41° W. 10 varas, S. $57^{\circ} 45'$ W. 570 varas, N. 53° W. 50 varas, to the place of beginning.

GEORGE LYON,
Deputy Surveyor.

SAMUEL GOLSTON, }
SANTIAGO CASSUS, } *Ch. C.*

I, George Lyon, Deputy Surveyor of the District of San Patricio and Nueces, do solemnly swear under my official oath, that the survey designated in the foregoing plot and field notes was made by me on the 27th day of November, 1848, and that the lines, boundaries, and corners, together with the marks, natural and artificial, are truly described therein. Witness my hand this 30th day of November, 1848.

GEORGE LYON, *Deputy Surveyor.*

I, Jacob Snively, Surveyor, etc., do certify that I have examined the foregoing plot and field-notes, and find them correct according to law. Given under my hand this 10th of January, 1849.

J. SNIVELY,
Surveyor of the District, etc.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify under my official oath that the foregoing is a true copy of the field-notes on record in the Surveyor's office of this District, as recorded in Book H, on pages 37 and 38. Given under my hand at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces and San Patricio.

RAFAEL GARCIA CAVAZOS *et al.* }
vs. }
 CHARLES STILLMAN, *et al.* }

In Chancery.

16th January, A. D. 1851.

This paper was produced by me to the witness, Felix A. Blucher, on his examination, and by him duly examined and sworn to as a true and correct copy of the records of his office.

In witness whereof I have hereto set my hand and the seal of Nueces County, at Corpus Christi, the day and date above written.

[SEAL.]

H. A. GILPIN, *C. J. N. C.*

J.

David Snively applies for the following locations. The headright certificate of Henry Hudson for 26 labors of land. To begin 200 varas below Fort Brown, on the east bank of the Rio Grande, thence to run up said river for legal front and back for quantity; also 640 acres donation H. H. to begin at the upper corner of a location made for Henry Hudson, to run up the Rio Grande for front and back for quantity. January 8th, 1847. Note: You will please apply James Taylor's League and Labor in place of Henry Hudson's, as there is something informal in his league. You will find it in my package. August 17th, 1847.

(Signed)

D. SNIVELY.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify under my official oath the foregoing to be a true copy of the entry recorded in the entry book of the Surveyor's Office of this District, as recorded on page 8. Given under my hand at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER,

Surveyor of the District of the Nueces, etc.

David Snively applies for the following locations. Land warrant issued to James St. John for 320 acres, to begin one hundred yards below Fort Brown, on the bank of the Rio Grande, to run down the river for front and back for quantity; also 320 acres to James St. John's land warrant, to begin at the lower line of the above survey, running down the river and back for front and quantity. March 20, 1847. Also, certificate No. , to begin at James St. John's lower corner on the Rio Grande, running down said river for front and back for quantity. Also three hundred and twenty acres for James Fox, beginning at the lower corner of a location made for J. Black, by virtue of certificate No. , on the Rio Grande, to run down the river for front and back for quantity.

I, Felix A. Blucher, surveyor of the District of Nueces and San Patricio, do certify under my official oath the foregoing to be a true copy of the entry recorded in the entry book of the Surveyor's Office of

this District, as recorded on page 23. Given under my hand this 15th day of January, A. D. 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, etc.

The District Surveyor of San Patricio and Nueces District (Jacob Snively) will please survey for me $\frac{1}{3}$ of a league of land, No. 111, issued to J. W. B. McFarlane, by the Board of Land Commissioners for the County of Victoria, to begin at the lower corner of a survey made for J. Baxter, opposite Matamoras, on the Rio Grande, to run down for front and back for quantity; also certificate No. 39, for 320 acres, to begin at the lower corner of a location made for J. W. B. McFarlane, on certiff. No. 111, to run down for front and back for quantity; also donation warrant No. 1140, for 640 acres, to begin at David Snively's lower corner, to run down for front and back for quantity. Also land warrant No. 310, issued to J. W. B. McFarlane for 960 acres, to begin at the lower corner of No. 1140, to run down for front and back for quantity; also certificate No. 1147, issued to P. Curling, for 640 acres, to begin at the lower corner of No. 310, a location made for J. W. B. McFarlane, to run down for front and back for quantity. This 23d of April, 1848.

(Signed)

DAVID SNIVELY.

I, Felix A. Blucher, Surveyor of the District of Nueces and San Patricio, do certify under my official oath the foregoing to be a correct copy of the entry made by David Snively, and recorded in the entry book of the Surveyor's Office of this District, page 57. Given under my hand at Corpus Christi, this 15th day of January, 1851.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, etc.

Charles Stillman makes application for the following certificates and land warrants, to be located on the Rio Grande, in the County of Cameron, certificate No. 36, for 1280 acres of land issued to Estevan Villareal, by the Board of Land Commissioners for the County of Nueces. To begin at the lower corner of a location made for David Snively on the left bank of the Rio Grande, on certificate No. 39, for 320 acres, issued by the Board of Land Commissioners for the County of Nueces, to run down for front and back for quantity according to law. Also certificate No. 18, for six hundred and forty acres, issued to Sabas Medrano by the Board of Land Commissioners for the County of Nueces, to begin at the lower corner of certificate No. 36, for 1280 acres, to run down for front and back for quantity according to law. Also balance of land warrant No. $\frac{533}{632}$, issued to Jacob Snively by the Commissioner of the General Land Office for 960 acres, on the 6th of April, 1847, to begin at the lower corner of No. 36, to run down for front and back for quantity according to law. Corpus Christi, November 7, 1848.

(Signed)

CHARLES STILLMAN.

FELIX A. BLUCHER,
Surveyor of the District of Nueces, etc.

In Chancery.

In witness whereof, I have hereto set my hand and the seal of the County of Nueces, at Corpus Christi, the day and date first above written.

H. A. GILPIN, *C. G. N. C.*

Translations of Exidos Grants.

JAMES LOVE, *Clerk.*

Translations of several Documents relative to the Egidos Lands of Matamoras.

Council Chamber of Matamoras. Most Excellent Sir: The illustrious Ayuntamiento of this city, desiring to give a favorable termination to the disagreeable affairs of its egidos, applies to your Excellency, making a statement of the actual position of the case, and accompanying the documents that have been found relative to it. In virtue of which, it begins by stating that, following the practice it found established on entering on the duties, and mindful of the law of the twenty-eighth of January, one thousand eight hundred and twenty-six, and of the fortieth article of its ordinances, it has granted lands for the labors of those comprehended in one league of circumference around the square, (plaza,) assigning to those who receive them an annual tax for the benefit of the municipal funds; but, in consequence of finding resistance on the part of some of those who claim to be the owners of said lands, originating lawsuits and discord

between these and the recipients, it proposed to the Second Alcalde what will be seen in the copy No. 1; and in virtue of the decree contained in it, the Secretary, at the stated session, produced the documents which are marked from No. 2 to 5, and this corporation decided that your Excellency be informed with the originals and this statement, adding that, having asked the Elder Secretary, Don Francisco Mayorga, he stated that the original of No. 3 must be in the archives of that government, as it was remitted for its approbation, and that the ex-Attorney, Don Juan Longoria Garza, answered that although steps were taken in consequence of statement No. 2, the proceedings were not written out, in consequence of the arrest under which the late Ayuntamiento started for that capital, by order of your Excellency, and which did not give time enough to do it. It is all that can be found out in relation to this abandoned and important affair, and this corporation recommends to your Excellency that it be settled soon, as the tranquillity of this neighborhood depends on it. The parties establish their claims on the previous endemnization of which the 13th article of the Constitution speaks. There is a difficulty in carrying it out, which is that the land which each claims has not been liquidated; therefore this corporation thinks that step indicated by the Second Alcalde is useful, adding that your Excellency name a surveyor to effect the measurement, and an attorney or agent to represent you, stating at the same time from what funds the proprietors and the surveyors are to be paid; this agent to be competently authorized to effect all that may lead to show the situation of the lands, overcome all doubts, and the affair will go on without obstacles. It is painful, most excellent Sir, that, after so many steps have been taken, (it is known that, besides those indicated, others have been taken in time of Don Andres Soldaña,) Matamoras has not been put to right on an affair that ought to have been forgotten already. This corporation expects that the labors granted in the egidos will remain in possession of the recipients, for in making these sessions it has generally been guided by justice, either because it has been satisfied of the necessity of the petitioner, or in observance of the possession and other merits of the denouncing party, having for rule the favoring of the greatest and most needy number, in order to get at as much equality as possible among the citizen. We will conclude, most excellent Sir, supplicating your Excellency to close this affair, either in the manner set forth, or as may be most convenient, with as little delay as possible, as this body desires to have the glory of closing the fountain of the evils indicated, by terminating them. On giving your Excellency the foregoing information, this corporation has the honor of offering you its considerations and respects. God and liberty. Matamoras, twenty-sixth of February, one thousand eight hundred and thirty-five. Francisco Garcia (a flourish of the pen attached to the signature). J. Leandro Ramirez (a flourish of the pen attached to the signature), Secretary. To his Excellency the Governor of this State, Don Francisco Vital Fernandez.—Fourth seal: three cents. For the years 1835 and 1836. Number 1. I, Jose Leandro Ramirez, Secretary of the illustrious Ayuntamiento of this city of Matamoras, certify, that in the act of the twenty-first day of the present month will be found

the following proposition: Señor Capistran proposed that the government be requested to name its agent (*hombre bueno*), of which the thirtieth article of the Constitution speaks, that, with the one named by the owners of the lands on which the city is situated, the indemnization which it expresses may be made; that this step requires promptness, in consideration of the germs of discord which have arisen between the recipients of labors and the owners of the *egidos* lands, as will be seen by the many suits that have been commenced about it, and which may soon lead to quarrels between them. It was resolved that the Secretary should make out a statement, with all the antecedents that he can get, and give notice of it at the session to be held on Thursday, for the better instruction of this affair. It is a copy of the original, which will be found in the session to which I refer. Matamoras, twenty-fifth of February, one thousand eight hundred and thirty-five. J. Leonardo Ramirez, Secretary.—Number 2. Statement of Don Juan Tigerina, relative to *egidos*, and claiming his lands. Year 1831. Third seal: twenty-five cents. For the years one thousand eight hundred and thirty-one, and one thousand eight hundred and thirty-two. To the 1st Alcalde: The citizen Juan Tigerina, of this city, in the name of my mother-in-law, Doña Xaviera de la Garza, who represents the rights and actions of her deceased husband, first executor of the testament of Doña Gertrudis de la Garza Falcon, appears before you through all the mediums of the law, and states: That at the time of the assignation of the *egidos* of this city, there were embraced in it lands on the other side of the river, that belong to private individuals, as are my part and its co-heirs (which, as it is public and notorious, I do not give the proofs). Proceedings were instituted on the said designation, and about making indemnization to the owners of the land, and by one of them I was cited for what corresponds to the heirs of the testament, and with character of executor, which I still possess, I gave the answer that will be found in the adjoining copy, which by chance I saved, and I refer myself to the original. My non-resistance and my entire condescension ought not to redound in injury to the heirs, taking away from them the free use of their property if the indemnization was not made as I proposed, nor in any other way, at that time or afterwards, up to the present time; and for the same reason they still possess their ancient right of ownership, which cannot be taken away from them without infringing on the 13th article of our constitutional charter. It is that in the said land there are many labors opened, with buildings for the inhabitants, farms, &c., and before the assignation of *egidos*, were occupied, some under leases, and others were allowed to remain on them gratis by their owners. Since that designation was effected, many, observing only the simple operations of measurement, without taking any other steps for the declaration of the *egidos*, have converted themselves into owners of what they occupy, under protest that the Judge has ceded to them the enjoyment of the land; the continued demands (*reclamos*) of the heirs have been classed as undeserving, denying them the aid of justice when they have seen their property attached, sheltering the occupants with their decisions, so much so that it was with pain that we saw a verbal sentence passed

against one of the heirs, depriving him of the use of one of the said labors. For all of this proceeding there is no more foundation to sustain it than two official letters (oficios) which you showed me, both of them from the government, one dated the 8th of October of last year, and the other of the 23d of September, 1829. By the first it is seen that his excellency the governor provides that as long as the order contained in the second is not complied with, those who are interested will not be allowed to demand any payment, to find out whether those interested (that is to say, the parties) or any or all the women owners of land, not finding the brief which caused this decision, would repair to the order of the 23d of September, and its tenor shows that is reduced to the summons of Doña Rita Giron, and this only in relation to the land that this city occupies, and not referring to anything else, or to any other person, it is clear that the heirs are not comprehended in that case, and doing away with the principle they wished to enforce. It is true, Señor Alcalde, that some of the citizens have been applauded and flattered, having lands assigned to them, but that is stripping the owners of the rights that the laws gave them. On account of such former wrongs the doors are open to complaints, which I will make for myself or the heirs in its proper place, awaiting that strict justice which you administer, that convinced of the points which favor the parties whom I represent, bearing in mind that they are under the safeguard of my indicated answer, and that there has been no remuneration made, you will resolve what is most convenient, putting an end to the existing evils and not make them more durable; making use of what I have stated and what I may further state if this should not be sufficient proof, favoring me with your decision, that in view of it the occupant may acknowledge the jurisdiction of private individuals over it until it is duly indemnified; I therefore ask and supplicate your highness to provide it, returning me this for the benefit of the rights of the interested parties. I implore justice, protest and swear all that is necessary in law. Matamoras, March 21, 1831: Juan Tigerina. Matamoras, 2d of April, 1831. Taken for presented, and admitted all that is lawful, and as this tribunal has before it the thirteenth article of the constitution of this State, it cannot in any way expose itself to the solicitude of the parties, this being a claim of rigorous justice. In virtue of this, let the party for the present consider that said lands are his legitimate property, instructing the government with the present for the further security of this decision, or that they be indemnified as they have offered, and as they again offer. I, the citizen, José Maria Villareal, 1st constitutional alcalde, he so decreed, ordered, and signed, acting as receiver (actuando p'r receptoria) in absence of the notary. I witness: José Maria Villareal, in presence of Manuel Galon and Agapito Herrera. In consequence of the preceding decree, I, the alcalde, having in my presence the citizen Juan Tigerina, whom I personally know, I gave him immediate advice of my decree, which being informed of he said that it was heard, and that he would explain it to his comparts; and that, being in the enjoyments of the rights belonging to them in their property, he will apply to the government in order that his excel-

lency the governor may determine what is convenient about the indemnization, which to that effect he asks, that his solicitude with the decision notification be returned: this he said and signed with me and my witnesses acting as aforesaid. I witness: Villareal, Juan José Tigerina. Witness: Manuel Galan and Agapito Herrera. It was returned to the party for him to apply to the supreme government, written on four leaves, and to make it evident I give this statement, which I marked with a flourish. That as agent, and representing his mother-in-law, Doña Francisca de la Garza, who represents her husband, Don José de Gozeascochea, first executor of Doña Maria Gertrudis de la Garza, to whom the lands that have been measured for Egidos corresponds from this place to the other side of the river Grande, and as these lands belong to many heirs, although they have not been formally divided between them, for the same reason not knowing to whom it will fall, and how much he thinks that nothing would be more reasonable than that they be remunerated with wild lands that are adjoining to the same pasture lands, which, although they would not be of as good quality, this remuneration would not be as injurious to the heirs as if each should have to receive four or five cords, (cordeladas,) and be remunerated at a distance, and in separate portions, making it difficult for them to use if not entirely useless; that, therefore, as he has already stated, there are wild lands adjoining the said pasture land, as are the Gragures (Potreros) of San Marco and Santa Isabel, which, although they are not claimed, are not adjudicated, it being claimed by one of the heirs through necessity going to considerable expense because his position demanded its requisition, partly to use it himself and partly to keep others from doing him any damages, as those he received in union with the other heirs; that by what he has stated, and he thinks that nothing can be more obvious than a proportionate remuneration with lands that are adjoining, I ask it thus in the name of the wife of the first executor for whom he has answered: this he said. It is a copy of the answer given to the original act of which I refer. Juan José Tigerina: Ciudad Victoria, July 29, 1831. The ayuntamiento in all preference will give information respecting the state of the affairs of the Egidos, and the first alcalde will order the owners of land they occupy to present themselves at his capital in person or through agent, within a determined and prudent time to be fixed, so that hearing the attorney general of finance (Fiscal de Hacienda) the indemnization to all may be agreed upon, bringing with them all the proceedings had relative to the case. Guerra: Manuel Garza de Porras, secretary. 1st Tribunal of Matamoras, April 23, 1834: the supreme order of the government of this State being accumulated in this proceeding: It is ordered that the fiscal resolution of the 19th instant be complied with, in which the illustrious Ayuntamiento has deliberated about the Egidos of this town, adding the secretary's certified copy of whatever may be conducive, and in consequence the proprietors of the lands are to be summoned to appear within the term of thirty from this date before the government in person, or by agents, for the just indemnization which the 13th constitutional article decrees, with the understanding that as they have

been summoned before this will by the last and peremptory term that will be given, and if they do not appear they will suffer the damages of the law, naming in default of appearing, agents for the election of assessing articles for removing the obstacles which his omission has presented in so important affair. And by this act the citizen Juan Longoria y Lerna, 1st Constitutional Alcalde, so decreed, ordered, and signed it. I testify: Juan Longoria y Lerna. In my presence: Antonio Escovedo, Public Notary. Dona Francisca Cabazos, whom I personally know, being present, I immediately made known to her the preceding decree, telling her at the same time that she must appear before the Supreme Government of the State and present the titles of property in order that the dimensions of the Egidos lands which correspond to her may be determined, and being informed of all, said: that her titles were in possession of Don Juan Tigerina, he being a compart, and in reference to the indemnization of the Egidos land which correspond to her, she will receive it in money as the government may dispose, leaving it her labor to which she considers as having a better title than the other neighbors, and stating that on account of her advanced age she cannot appear in person, nor by agent, but that she will pass by what the government may dispose, because she esteems its resolutions as paternal: this she answered, and did not sign, not knowing how. I testify: Lerna. Antonio Escovedo, Notary Public. In continuance Don Domingo de la Garza of this city, whose person I know, being present, I explained to him the preceding decree, telling him likewise that for the just indemnization provided for, he must present the titles of property to the Supreme Government of the State, and being informed of all, said: that he has no titles of property in his possession; that if he has any right he can appear, and if not he will omit it. This he answered and signed. I testify: Jose Domingo de la Garza. Before me, Antonio Escovedo, Notary Public. In the same town, day, month, and year, a citizen, Juan Tigerina, another of the owners of land in the Egidos of this town, whose person I know, being present, I made known to him the preceding decree, and being informed of it he said: that he hears and obeys; that he will appear either by person or agent within the time fixed, with the titles to prove his property. This he answered and signed. I certify: Juan Jose Tijerina. Before me, Antonio Escovedo. In the same date, trying to summons the citizen Manuel Prieto, the aforesaid citizen Juan Jose Tijerina stated that the wife of the said Prieto, Dona Trinidad, told him that he was in Victoria, and that he will be ready to comply with all that is ordered for the evidence of which the judge ordered this statement, which he signs with the said Tijerina. I testify: Juan Longoria Lerna, Juan Jose Tijerina. Before me, A. Escovedo, Notary Public. 3d seal, 25 cents. For the years 1831 and 1832. Most Excellent Sir: Juan Jose Tijerina of this city, on behalf of my mother-in-law, Dona Francisca Javiera de la Garza and her co-heirs before the notorious justification of your excellency with all due respect present myself and say: That the decision of the citizen Alcalde lo, which will be seen in the only memorial that I accompany, did not produce the effect that it offers, as the occupants of the lands of which it treats, only some of them recognize the property, and these appa-

rently, so that the owners of them are liable to have their attached, and without recovering the rights that they have demanded. Since the decree that was issued respecting grants of Egidos to this town, which suffered the strong irruption of the arbitrary conduct of the judge of that year, who violently dispossessed the owners of what belongs to them in order to dispose of and transfer them to certain persons who actually occupy them, the proprietors see with pain that others enjoy what has been taken away from them, and that they not only do not receive rents as formerly, but are likewise deterred from cultivating any labors for their own benefit, as it has been denied them. This transcendental evil has been propagated by succeeding judges, who under pretence that they cannot oppose the dispositions of their predecessors, but on the contrary to sustain and carry them out, they at last lend means, although weak, to the judge of this city, to deny the remedy, to such great evils condemning the complainants to the humiliation of petitioning to obtain as a favor that which they could demand in rigorous justice; but this not being sufficient for the injured parties, they have determined to demand their just rights and accuse the responsibility of the judges. But it has been thought difficult when it is considered that for their action they will have to be separated from their families, homes, and interest to a distance of about one hundred leagues from the capital, and the necessary means for a tedious and costly suit. Yes, most excellent sir, it being so clearly proved that the land that I claim is private property; it being evident that no authority can take it except for common good, and even this until the owner has been indemnified, according to our fundamental charter, notwithstanding the judges have been able to snatch away their dominions from the owners, presenting to the public a testimony that they could do what the laws do not wish and oppose the 13th article of our Constitutional charter: I therefore demand and supplicate your excellency that, taking into consideration the claim that I make for myself and co-heirs, you will determine and order that as there has been no indemnization made for the lands designated for Egidos of this city, they be recognized as private property, leaving the owners to occupy such labors as may suit them, to receive the rents due up to the time of their being replaced in the possession of their usurped rights, and to have an understanding with the other occupants until the indemnization is made according to the law; besides that your excellency will, in view of the information given in my petition, order officially, that the aggrieved parties may demand if they think it convenient: it is justice I implore from the well known rectitude of your excellency. Matamoras, July 19th, 1831. Juan Jose Tijerina. Officially. 4th seal, 3 cts. For the years 1833 and 1834. I, Francisco, Secretary of the very Illustrious Ayuntamiento of the city of Matamoras, certify: that in the book of the Corporation sessions for the present year there is one on pages 138 and 139 of the 19th inst., in which a determination of the following tenor is found. The said Syndic demanded that the decree of the Supreme Government of the State, of the 29th June, 1831, be complied with: it provides that owners of the land that this city occupies, be notified to go to the capital of the State in person or by agent, to show the right that they

may have to the indemnization of the same, which affair has been set afoot several times for its accomplishment, and it has observed, with great pain, that an affair of such importance should be let to slumber in silence with notable grievances to the interested parties and the citizens for which he requested it to be complied with exactly, otherwise to indicate a means of putting it into execution and demand it of the Government: And the corporation being informed of its contents, and of the justice attending the demand of the Syndic, resolved that the citizen Alcalde lo, with all preference, will enforce the said decree, making the parties appear to be notified, and giving immediate information of everything to the Supreme Government, for it to act as may be convenient, as likewise informing this body of the execution of this order, that they may give the same advice to the superiority (superioridad) with the understanding that if there is any obstacles put in his way towards enforcing this order he will inform the corporation of it, that they may take proper measures, which order the President will acquit. For the validity of which I give the present by a judicial order in Matamoras, on the 25th day of April, 1834. I testify. Francisco Mayorga, Secretary. Respecting the summons served on me under date of 30th of November last, I convoked my brothers, and I appeared for myself and them, giving notice that the land which might be taken for our account must be indemnified out of the natural land which there is in the Mertena, otherwise to be paid in cash. With this I answer your said note, offering you at the same time the considerations of my esteem. God and liberty. Matamoras, December 2, 1834. Jose Domingo de la Garza. To the second Constitutional Alcalde, Don Manuel Garcia. By your note of this date I am informed that to-morrow you will proceed to the demarcation of the Egidos of this city, to which act you summons me as the owner that I am of the land, but as you, at the same time, request that I present myself with the titles to show the right and possession that I have on that land, I cannot do it so because the said titles are in Ciudad Victoria. However, if this is no obstacle in the way of effecting the act, I can only send an agent who will go to see the land that is taken from me in order that it be paid to me in cash, whatever may be its just price, otherwise I formally protest against the demarcation. This I say in answer to your said note. Respectfully yours. God and Liberty. Matamoras, 30th of November, 1834. Maria Rita Giron. To the second Constitutional Alcalde, citizen Manuel Garcia. No. 3. Three cents. 4th seal. Appointed by the State of Tamaulipas for the year 1826. Rodriguez. In the city of Matamoras, on the tenth day of the month of July, 1826, I, the citizen Jose Maria Villareal, first Constitutional of this city aforesaid: In order to comply with the commands of his Excellency, the Governor of this State, in his order of the 6th of February last, which is the preceding one, and commences this proceeding, I ordered a summons to be given to Dona Maria Rita Giron, Don Jose Domingo de la Garza, for himself, his mother, Dona Guadalupe, and his absent brothers, Don Man'l de la Garza, D'n Laureano Garcia y D'n Rafael Gonzales, owners of the lands that will compose the Egidos on this side of the river and on the other side, D'a Maria Fran'ca Cavazos, who being present, I informed them all

and every one of them of the determination of his Excellency the Governor of this State, and that in order to proceed to its execution they should name a person of their confidence to act as arbiter, who, in company with the one appointed by this tribunal, will go out and look at the land that will comprise one league on every side, which being informed of, Messrs. Garza, D'n Laureano Garcia, and D'n Rafael Gonzales, said that they were ready to obey the decision of the government of this State, and would give up the land of their property which may comprise part of the Egidos of this city, with the distinct condition that they are to be remunerated by the government with national lands of those within this jurisdiction; and they agreed to name D'n Yrineo Gomez as their arbiter: and Dona Rita Giron and D'na Francisca Cabazos answered, the first the purport of the document signed by herself, and which is adjoined, and D'na Francisca Cavazos gave a verbal answer to the same effect, therefore I, said Judge, seeing the obstinate resistance of these ladies, I determined to inform the Supreme Government of this State with their answer, stopping the operations to continue them as soon as I receive an answer. To give it validity the interested parties sign it with me in the presence of two witnesses, with whom I act as Notary Public, there being none according to law. I testify. In the said city, on the 7th day of the month of August of the same year, I, the said Judge, having received an answer from the Government of this State set forth in previous decree, ought to have ordered, and do hereby order the measurement of one league of land on every side from the centre of this Plaza, which will serve for Egidos of the city, therefore it is ordered that the surveyors on the part of the community and for the owners of the lands that are to be occupied be named. Those whose lands adjoin are to be summoned to attend said measurement. I, the first Alcalde, do thus provide, order, and sign, with two witnesses, acting as Notary Public, there being none according to law. I testify. In consequence of the preceding decree, I, the said Judge, named as surveyor the citizen Caytano Medrano, on the part of the citizens, he being a person of integrity and of some intelligence on the subject, the owners of the land naming on their part, to accompany him, the citizen Felipe Roque de la Portilla, a resident of this place, without the knowledge of Doña Rita Giron and D'a Francisca Cavazos, on account of the rebeldia they manifested towards the adjudication of lands for the Egidos of this city; and those appointed being informed of their election, they accepted and promised to act according to their best knowledge, taking the usual oath before me, said Judge. And to give it validity, I put this by decree, which the appointed signed in presence of witnesses, which I testify, in default of Notary Public. In the said city, on the 12th day of the same month and year, I, the said Alcalde, Judge of this survey, in company with my aids, the appointed surveyors, arbiters, two computers, and other citizens whom I convoked to that effect, I commenced from the centre of the square, measuring 100 cords (cordeles) of 50 Mexican varas each, in a western direction, to a place known as the old boundary which divides the lands of D'ña Rita Giron from those of the late Capt. D'n Jose Antonio de la Garza Falcon, from which

place 50 cords were measured towards the north, which brought us to the principal road that leads to Reynosa at the place called Estero de San Pablo, where the boundary was fixed, as it is one of the most travelled places, and following the same direction toward the north 38 more cords were measured, arriving at the river where Don Patricio Hernandez' rancho is situated, which was done with the object of finding out the quantity of land on this side that belonged to D'a Rita Giron, and which the bystanders declared to be hers, the said Doña Rita not appearing neither in person nor by agent to witness this measurement, on account of the rebeldia stated, and which the said judge have set down by this decree, which I sign with the surveyor and witnesses. I testify. In the said city, on the day of said month and year, the measurement was commenced from the centre of the square towards the East, to measure 100 cords of 50 Mexican varas each, with four of them we arrived to the place which divides the land belonging to D'a Rita Giron from those of the citizens Garzas of this city, and with the total of 50 to the place known as the labor of Don Domingo de la Garza, it being very near the river no mark could be put down on account of the land being subject to changes brought about by the freshets, from this place 26 cords were measured to the south until arriving at the road which leads from this city to the sea, where a stake was driven until a firm and lasting boundary could be fixed and to make it evident. I, the said Judge, surveyors and witnesses. I certify to the whole. In the said city, on the 16th day of the same month and year, I, the said Judge, with the said surveyors and witnesses, proceeded to measure one league of land toward the south for Egidos of the said city; it was commenced from the centre of the square, arriving with 100 cords of 50 Mexican varas each to the place known as the Cabecero de la Leguna del Toro Muerto, from where to fix a sensible mark four cordeles (cords) were measured towards the west, which brought us to the road that leads from this city to that of San Fernando, where it was provisionally fixed, the bystanders declaring that these lands belonged to Doña Rita Giron, and I set it down by means of this decree, which I signed with the surveyors and witnesses as already stated. I testify. In the same city, on the 22d day of the same month and year, I the said Judge, with the aforementioned surveyors, proceeded to measure one league of land corresponding to the Egidos of this city in a northern direction, and commencing from the centre of this square, and without including in it the width of the river, we arrived with 100 cords of 50 Mexican varas each to where a plain of San Cristobal ends, distant from the road that leads to the Esperitu Santo Bay 43 varas to the east, which place was marked in the road by a Mesquite worked into a cross, which will serve as a boundary till a firm and lasting one can be put as aforesaid, the bystanders declaring that it belonged to Doña Francisca Cabazos, and to give it validity I sign it with the surveyors and witnesses. Of which I testify. On the same day, month, and year, having concluded the measurement of one league of land in the direction of each of the four principal points of the compass, commencing in the centre of the square which is to adjudicated for egidos of this city, remunerating their owners for it according to the provision made by the Sov-

reign Government of this State, I, the said Alcalde, ordered that arbiters be named by the interested parties for them to make a reconnoissance of the land measured and marked, and being well informed of the quantity to be taken from each possessor as its quality will show, the election fell on the citizen Yrineo Gomez, Miguel Longoria, and Macedonio Capistran, who, being informed of what they had to do, accepted, promising under oath to do it faithfully and legally, signing it with me the said Judge and witnesses, acting as aforesaid. Of which I testify. In the said city, on the 29th day of the same month and year, before me, the said Judge and witnesses, appeared the citizen Yrineo Gomez, Miguel Longoria, and Macedonio Capistran, arbiters appointed to reconnoitre the land survey, and which are to serve as egidos for this city, and unanimously and in conformity declared that, in compliance with their commission, they effected said reconnoissance, and that the quality of the land comprised within the stakes is barren, excepting the bank of the river, whose margin is cultivated in some part and corn (being the crops aspired) they are very contingent, on account of the scarcity of rain and heavy rises of the river. That the western and southern boundaries are staked out on Doña Rita Garon's land, that of the east on the land of D'ña and the north one on Doña Francisca Cavazos': and that to their understanding the four sitios which are to serve for the Egilos of this city one and a half corresponds to the first named, one to the second on this side of the river, and on the other side one and a half to the third. This they declared, and signed with me and witnesses in the customary way. I testify. Number 4. 3d seal. 25 cents. For the years 1833 and 1834. To his Excellency, the Governor. The citizen Juan Jose Tigerina, a citizen of Matamoras, before your Excellency, with due respect, appear and say that the citizen Alcalde lo of this place showing me a decree issued by the Supreme Government on the 29th of July, 1831, calling upon the proprietors of the lands for egidos of that place to come to this capital with the documents of their property to effect the indemnization, he told me that within the term of one month I should present myself to your Excellency with my titles respecting the part which on the other side of the Rio Grande correspond to my wife, D'a Feliciana de Gozeascochea, whom I represent; in order that, being examined by your Excellency and found satisfactory, to proceed to the indemnization aforesaid. In compliance, I present the titles to the lands which comprise my wife's part and that of her comparts, requesting that your Excellency will return them to me after they have been seen, examined, and qualified. It is justice that I implore. Ciudad Victoria, June 4, 1834. Juan Jose Tigerina. Ciudad Victoria, June 20, 1834. The title of adjudication presented by the citizen Juan Jose Tigerina of the lands known by the name of *Potrero del Esperitu Santo*, being considered satisfactory, this document will pass to the citizen Alcalde of the City of Matamoras, in order for him to state at the foot of this decree the quantity of land that has been taken from the said Tigerina, and comprised in said titles, for the egidos of the city, and its value, which will be assessed by arbiters appointed by the interested party and the Ayuntamiento, and a

third one in discord, who the Alcalde himself will choose in case of a disagreement, and remit the proceedings to this government for its final determination. Fernandez. G. Arcos, First Officer. No. 5. Government of the State of Tamaulipas. Those who occupy the lands of which your highness speaks in your note of the 23d of January, ought in justice to pay the customary rent that has been demanded of them in the previous years, whether the lands are considered as belonging to the egidos or to private individuals; as in the first case the rents belong to the municipal funds, which have an unquestionable right to collect them, and in the second place its collection reverts to the proprietors. However, the decision of these questions belong to the judicial authority, which, hearing the interested parties and asking for all the information and necessary proofs relative to it, will give its decision through the proper tribunal, according to the sum demanded. God and liberty. City of Victoria, February 2d, 1833. 10th, &c. Francisco V. Fernandez. Jose Nuñez de Carceres, First Officer. To the Alcalde 1o of Matamoras. They were remitted on the 25th of February, 1835, on 18 leaves. Ramirez.

They are copies of the originals which are on file in this office; they are faithfully corrected, and are taken at the request of Mr. E. Basse, in compliance with a Government decree, which will be found on the margin of the petition; it is written on 18 leaves, stamped with the seal of this office, the last page being signed by the subscriber, and the others bearing his flourish, he being 1st officer acting as Secretary.

Ciudad Victoria, June 28, 1850.

JORGE HOPHAM,
First Officer.

On the outside covering.

[Translation of a law on Colonization. Victoria de Tamaulipas, December 15th, 1826.]

Filed by defendants, read at the hearing by the complainant subject to correction. Number 42. Of the 15th December, 1826. On Colonization. The Constitutional Congress of the State of Tamaulipas decreed as a general law the following:—

Article 1. The foreigners who may wish to colonize the public lands (terrenos baldios) of this State, will be admitted and protected in person and property, provided they will abide by the laws of the Federation and those of the State.

2. For a foreigner to obtain the adjudication of lands, he must settle himself within one of the towns of the State, with a capital belonging to himself, and which will support him with decency, or he must follow some trade or useful occupation; or he must establish a new one, with one hundred families at least. If he establishes himself on the northern frontier of the State, fifty families will be sufficient.

3. In either case they will make their petitions in writing to the Governor of the State, who will decide them in accordance with his

Council and the Attorney General (fiscal) of the State tribunal of justice, giving them the grants of lands that will be hereinafter fixed.

4. Foreigners who may wish to settle in any of the existing towns after their petition is granted, must take an oath before the respective civil authority, that they will observe and comply with the constitutive act, the constitution and laws of the Federation, and the constitution and laws of the State.

5. That after this act the same authority will order that in a book to be called the Foreigners' Register, the names of all those who have taken the oath of which the preceding article speaks, be inscribed, stating their age, state, profession, and place of birth; registering likewise the names of the family he may have, and the reason of his taking the oath. These books will be kept in the archives of each place.

6. The letters of naturalization and citizenship will be given to the colonist as soon as they obtain that of naturalization from the General Congress.

7. From the same day in which a foreigner is registered, he acquires the rights of inhabitant, and as such inhabitant (vecino) can denounce the wild lands that he may like best, petitioning for them by writing to the respective Alcalde, who will provide to have it surveyed, measured, and marked, with a previous summons of those whose land adjoins, if there be any.

8. The instructive proceedings having concluded without any legal opposition, the Alcalde will remit them to the Government of the State, which will issue the title of adjudication and proprietorship to the interested party, giving orders to the Alcalde of the village in which he has settled to put him in immediate possession of the land granted to him. All this will be done officially, and the Government will act with the advice of the Attorney of the Supreme Court of Justice of the State.

9. The opposition that may be made on the right of property will be decided in an ordinary civil suit between the denouncer and the opposition, the former being aided by a State agent, who the Government will name through citation from the Attorney. If opposition is made on the right of selection of the property, the Government will qualify and decide it.

10. The Government will take care to repopulate the villages that have been depopulated, and very particularly that no obstacles be put in the way of the denouncements, and in the judicial proceedings that may have to be taken for them.

11. It will likewise take care that no settlement of foreigners be commenced within the leagues of the coast of the Gulf of Mexico within the limits of the State, without first obtaining the approbation and permission of the Supreme Government of the Union. Out of this line it will likewise take care that the new establishments be commenced as near the existing villages as possible, on the terms and conditions that it will stipulate with contractors.

12. This law will guarantee the contracts that the settlers may make with the Government, provided they are in conformity with its provisions.

13. In the distribution of lands the preference will be given to the military, in view of the diplomas issued to them by the supreme executive power. Among the citizens not belonging to the military order, no other distinction will be made than that which their private worth and the services rendered their country merits; preferring, in case of equal circumstances, the inhabitants of the place to which the land belongs. The size into which these are to be divided will be stated in the following articles.

14. A square of land which is one league long on every side, or what is the same, a superfice of twenty-five millions square varas, will be called Sitio, and this will form the unity from which to count one, two, or more sitios; and the unity to count one, two, or more labores will be a superfice of one million of square varas, or of one thousand varas on every side; this will compose a labor. The vara for these dimensions will be three geometrical feet long.

15. That unity being supposed, and the distinction to be made at the time of distribution between the pasture lands and those of irrigated labores and labores that depend on the season (*de temporal*), this law grants to the contractor or contractors of settlements for each hundred families, that they introduce and establish in the State five sitios of pasture lands and five labores, one-half of which at least must be of those depending on the seasons (*de temporal*), but they can only demand for eight hundred families even if they introduce more; and no fraction that does not make up a hundred, no matter what the number is, will give them a right to recompense, not even in proportion. If the northern frontiers are settled, then fifty families will entitle them to the benefits of this article.

16. To each family of those comprehended in agreement (*capitulacion*), whose profession is tilling the land, will be granted one labor; if they receive cattle it will be augmented to one sitio, making it up with pasture lands; and if they only dedicate themselves to growing cattle, they will only have a superfice of twenty-four millions of varas.

17. Men that are not married will have the same assignation when they have passed to the matrimonial state; and foreigners who may contract marriage with a Mexican woman will receive one-fourth more, whilst those who are absolutely alone, or do not form part of any family, let them be foreigners or natives, must be content with one-fourth of that assignation; all that can be given to them, which will be completed when the time arrives.

18. Families and unmarried men, who of their own accord and their own account have made the trip to join any of the new settlements, can do so at all times, and their assignation of lands will be respectively the same as stated in the foregoing two articles; but if they do it within the first two years after the establishment of the settlement, one labor more will be granted to the families and the unmarried instead of one-fourth, which the 17th article apportions they will have one-third. The unmarried men who have family are placed in the same position as families.

19. For the project of new settlements which one or more foreigners may offer to populate with one hundred or more families, or with

fifty if it is to populate wild lands, or deserts on the northern frontier of the State, the Government will propose it to Congress, that in view of its answer it may enter into agreements.

20. The adjudication and possession given to new foreign settlers will be subject to the following rules:

First. All lands and deserts which have been denounced for settlement sixty days without their presumed owners appearing to justify their rights to them, will be considered subject to colonization.

Second. Those which, having been adjudicated by this law, are abandoned for five years without any heir appearing to claim them within that time.

Third. Those which, having been disputed in a contradictory *litis* (*juicio controditorio*) as to their ownership, have been voluntarily abandoned by the parties for three years, or that they may have set aside the *litis* without a regular and definite sentence, may have decided the right in favor of either of them, provided that the time fixed by law for considering a *litis* as abandoned has passed.

Fourth. The boundaries which are fixed must be clearly and distinctly marked, expressing the directions and specific signs, on the responsibility of the Judge of Survey (*Juez de medidas*.)

Fifth. The water ponds which those lands may contain will likewise be denounced and adjudicated with them.

Sixth. Until twelve years after the publication of this law they cannot be disposed of, or transferred to be owned by any one who was not born in the Republic, or who may live out of the State.

21. The children of the foreigners who were not born in the Republic, and have become settlers in it, can inherit them by testament or *ab-intestato* in equal parts. The part that would correspond to any returning to his country, will be divided among those who remain in the State, and indefinitely. In this part the right of inheritance by transversal line will not have effect.

22. Any adjudication or possession given of lands denounced for settlement will be done after summoning the adjoining proprietors (*colindates*.) Those who do not appear either personally or by agent will have to suffer any damage that may accrue to them, and their complaints will not be listened to.

23. The new settlers as an acknowledgment will pay to the State thirty dollars for each *sitio* of grazing land, untilled or mountainous, that is adjudicated to him, and those having water running through them or stationary, will be valued by two arbiters named by the Government and the settlers, agreeable to the established basis.

24. The *Ayuntamiento* of each district will collect these amounts *gratis*, by means of a committee to be appointed from its members or others, and will hand them over as they are collected to their treasurer, who will give a corresponding receipt without charging more than two and a half per cent. which will be paid to him; he will keep them subject to the orders of the Government and give information every month of the ingress and egress, and of the carelessness he may observe in its collection. For the management of this and the committee, the same employees and the committees and the individuals of the *Ayuntamiento* who appoint them will be responsible

with their property, and in order to make their responsibility effective at all times, those appointments will be made by a nominal vote, advising the Government of it immediately.

25. The Government will convoke those born in the Republic of Mexico to occupy the waste lands, and they will be preferred to foreigners in the order of priority of denouncements, and in case the denouncements are alike, the natives of the place to which the land belongs will be preferred, the second preference will be given to those residing in other parts of the State, and the third those of the other Mexican States, the extension of land that can be adjudicated being one hundred and twenty-five millions of square varas.

26. Those who denounced lands during the time of the former government, the acquisition of which were not perfected, will present themselves to continue it before the respective authorities according to their State, during it within the term of forty days after the publication of this law, otherwise said lands will be considered subject to be denounced as wild lands.

27. The denouncements which have passed to the Congress of the State will be returned to the Government, which will make it pass through the proceeding decree in this law.

28. The proprietors of large tracts of wild and uncultivated lands must populate them with foreigners or Mexicans within the term of five years, with the conditions they may think convenient, otherwise the opposition they may desire to make to the denouncements according to this law will not be taken in consideration.

29. The lands which by the foregoing article should be denounced will be valued by arbiters named by the Government and the proprietor, for the indemnization of the proprietors, without any resistance being made by them.

30. By deserted and uncultivated lands it will be understood to mean all that portion of which the proprietor makes no use of himself.

31. The lands that are in virtue of this law acquired cannot pass to the hands of the clergy, neither can more than two grants be made to one individual, and this in case the multiplication of his personal property may make it necessary. For any infraction in these cases the State will recover the property from them.

32. The produce of the rural industry of these lands, acquired according to this law by Mexicans or foreigners during the term of ten years counted from the day that the possession is given, will be free of all direct or indirect contribution, whatsoever be its denomination, unless Congress decrees it especially for these new settlements.

33. These settlers will likewise be free to promote all branches of industry to work mines in accordance with their ordinances. The machines, instruments, and other needful articles they may introduce with that object, will not pay for ten years any contribution levied by the State, without accepting even the municipal one.

34. The town lots that are abandoned in depopulated villages in which they may desire to fix their residence, will be adjudicated to them gratis by the Alcaldes of those villages.

35. The natives of the country known by the name of Indians will enjoy the benefit of this law.

36. The Government will appoint two approved surveyors, and in want of these two competent individuals to attend the operations required by this law, which will be published so as to get to the knowledge of all nations interested in colonizing. The Government will bear it in mind, will see that it is put in force, and will have it printed, published and circulated. Ciudad Victoria, December 15th, of the year 1826, 3d of the installation of the Congress of this State. Rafael Quintero, Deputy President; Juan Nepomuceno de la Barrera, Deputy Secretary; José Miguel de la Garza Garcia, Deputy Secretary.

I therefore order it to be printed, published, and circulated, and that it be duly respected. Ciudad Victoria, December 15th, 1826.

LUCAS FERNANDEZ.

ELENO DE VARGAS.

Secretario.

It is a copy of the original which will be found in the archives of this office, it is faithfully corrected, and is taken at the request of Mr. E. Basse, in compliance with the decree of the Government, which will be found in the margin of the petition of the interested party; it is written on eight leaves, and sealed with the seal of this office; the last one I have signed, to the others I have merely used the flourish that I attach to my signature.

City of Victoria, June 28th, 1850.

JORGE HOPHAM,

1st Officer.

Translation

Of the original copy of the deed of sale of one labor on the left margin of the River, ceded to Don Manuel Trevino, Matamoras.

Catarina Vela, in the city of Matamoras, on the ninth day of the month of June of the year one thousand eight hundred and forty-six, personally appeared before me, the Notary Public, and witness, Mr. Gualterio Henry, a citizen of this place, to me personally known, and stated, that in accordance with the steps taken in this tribunal through me the Notary Public, in consequence of the cession of property which Doña Catarina Vela made in favor of her creditors, he, Gualterio Henry, being one of them, was at a general meeting held on the twenty-seventh day of May of last year appointed syndic; that with this character on the twelfth day of June he requested power to sell the ceded property to the best advantage, and to avoid loss to the creditors, the tribunal was called together, when it was enacted as will be seen by the proceedings, which are as follows: In the city of Matamoras on the fourteenth day of the month of June, year one thousand eight hundred and forty-five, at a meeting presided by the Deputy Judge, Messrs. Gualterio Henry, Miguel O'Donnell, Bange y C'a, Manuel Gomez Valdez, and Charles Stillman, represented by the first named gentleman, all of them creditors of Catarina Vela and elders in number and quantity, the said Judge ordered that I, the present Notary, should read the foregoing proceedings, which was done, and the meeting being informed of its contents and the reason on which it was founded, agreed unanimously that the ceded property

should be sold by the syndic as soon as possible, to save the creditors from losses that might be sustained by keeping it for any length of time, for which the syndic is duly authorized and can proceed immediately in the manner and form he may think best, without limiting himself to the judiciary, it being agreed for mutual benefit. There being nothing more to be done, this act was concluded by all the creditors, and the Judge, signing the present in my presence, and of which I give faith. Augustin Menchaca, Manuel Gomez Valdez, Gualterio Henry, Range y C'a, Miguel O'Donnell. Before me,

JOAQUIN ARGUELLES,
Notary Public.

That in virtue of the aforesaid power he offered for sale at public auction, through medium of the auctioneer D'n Carlos Francisco Galvert, the property that was ceded to the creditors, and among which there was one labor fenced with brush and posts situated on the left margin of the river Bravo at the place called Estero, limited on the east by D'n Doroteo Famora, on the west by D'n Teodoro Molano, on the south by D'n Francisco Fragosa, and on the north by Don Andres Pineda, consisting of one thousand seven hundred and fifty varas in square, which labor in a state of cultivation was bought according to the account presented by the same auctioneer and which is in the proceedings, by Don Manuel Treviño Canales of the same city, for the sum of one hundred and four dollars, which he paid and was received by the creditors: and that, being prevented at the time by other occupations from giving to the purchaser his corresponding deed to secure to him his property, he now does it in the way and form which may be most legal: he therefore deems, that in consideration of the said purchase, he hereby declares that the creditors of Doña Catarina Vela have no further title or right whatever to said labor, and that all the rights and titles they had are now transferred and vested in the aforesaid Don Manuel Treviño Canales, that he may of right hold and possess or dispose of it at his will, in virtue of this deed, which shows that he has acquired and holds possession of it without further proof, from which he is released. And as in this case the seller is bound to protect the purchaser in his title, he hereby binds himself with respect to the labor mentioned in this deed, for the fulfilment of which he for himself and in the name of the creditors binds his present and future rents, submitting to the justices and tribunals of the Republic of Mexico for them to compel him to comply with it as if it had been already tried, sentenced, and agreed to, or as may be most convenient. This he stated and signed in presence of Don Juan Prado, D'n Nabor Lopez de Oropeza, y D'n Leonardo Espinosa, all citizens. Gualterio Henry. Before me.

JOAQUIN ARGUELLES,
Notary Public.

This was copied from the register to-day to be delivered to the purchaser; it is written on one sheet of the third seal, in faith of which I made and sign it on this sixth day of October, one thousand eight hundred and forty-eight.

JOAQUIN ARGUELLES,
Notary Public.

Decree changing the name of the Congregation of Refugio to City of Matamoras.

Jan. 28, 1826.

The Governor of the State of Tamaulipas to all its inhabitants: Know, that the congress of the same has decreed the following: Number 12. The constitutional congress of the free State of Tamaulipas, desiring to foment the population and to perpetuate the memory of one of the martyrs of the country, has decreed the following: Article 1st. It is granted to the Congregation of the Refugio the title of Villa, (a town which enjoys by charter some peculiar privileges,) and will be called Villa de Matamoras. Article 2d. The said town will remain where it is, and the Government will see that the necessary steps are taken to settle the property of the lands on which it is situated, and if it is the property of private individuals to indemnify them for it. The Governor of the State will bear it in mind, and order it to be complied with, having it printed, published, and circulated. City of Victoria, January 28th, 1826. 3d of the installation of the Congress of this State. José Miguel de la Garza Garcia, Deputy President. Juan Nepomuceno de la Barrera, Diputado Secretary. Rafael Quintero, Deputy Secretary. I therefore order it to be printed, published, circulated, and put in force. City of Victoria, January 31st, 1826, third of the installation of the Congress of this State. Lucas Fernandez. José Rafael Benevides, Secretary.

It is a copy of the original which I certify, and is to be found in the archives of this office; it is faithfully corrected, and was taken at the request of Mr. E. Basse, a lawyer from the United States of the North, in compliance with the Government decree which is on the margin of the petition; it is stamped with the seal of this office, and is signed by the undersigned, 1st officer, acting secretary.

JORGE HOPHAM,
1st Officer.

A petition from the Ayuntamiento of Matamoras and the Syndic Attorney.

12th of Feb., 1835.

Political Gefatury of the Northern Department. Excellent Sir: The Illustrious Ayuntamiento of this town, in a dispatch (oficio) dated the 11th inst., tells me what follows: In an extraordinary session of the 9th inst., the Syndic Attorney (Sindico Procurador) proposed that, being commissioned to reconnoitre and measure the lots and labors asked for by the citizens, a surveyor be permitted to join him in effecting one and the other, and that a salary be assigned the said surveyor, because experience has shown that bad measurement occasion confusion in the profession, and, consequently, differences between the professors, and the time not being distant when what one Ayuntamiento gives another will take away, as may have already happened; for which it would likewise be good, and it has already been requested by some, that titles of possession be given to those who have received grants in the name of the Ayuntamiento, signed

by the President and Secretary, and charging two dollars for the same. It was likewise proposed by the President that the festivities of this town will be celebrated from this year, from the 25th of April to the 10th of May, that being the best season for strangers to attend, and when the inhabitants have less to do on the whole, it was resolved that the approbation of the Government be requested by the next mail, adding that the salary of the surveyor is not to exceed thirty dollars per month. I send your excellency a copy for your instruction and approbation, leaving to this Gefatura the appointment of the surveyor requested in the inserted communication. On remitting it to your excellency I have the honor of repeating my consideration and particular esteem. God and Liberty. Matamoras, February 12, 1835. Francisco Lojero. To his Excellency the Governor of the State, Don Francisco Vital Fernandez, Ciudad Victoria. On the margin, Ciudad Victoria, February 20, 1835. To the Council. Fernandez. Francisco Villareñor, 1st Officer.

It is a copy from the original which is in the archives of this office, is faithfully corrected, and was taken at the request of Mr. E. Basse, in compliance with the government decree which will be found on the margin of the petition; it is written on two leaves and sealed with seal of this office, the second being signed and the second marked with a flourish by the undersigned, 1st officer, acting as Secretary.

JORGE HOPHAM,
1st Officer.

Additional Law on Colonization.

17th November, 1833.

Government of the State of Tamaulipas. Circular. The Constitutional Governor of the State of Tamaulipas to all its inhabitants: Know, That the congress of the same State decrees as a law the following:—

Number 42. The constitutional congress of the free State of Tamaulipas decrees as a general law the following:—

Article 1. The State admits into its territories the foreigners of every nation excepting the subjects of any of them that might be at war with that of Mexico. No one shall be molested, not even for his political and religious opinions, as long as he does not disturb the peace.

Article 2. The foreigners and the natives of other states can enter into colonizing enterprises in this State; they can become colonists of the new towns, or become residents of those already existing; and in any case they will enjoy, gratis, the lands which will hereafter be designated. The citizens of this State can likewise enter into projects for colonizing.

Article 3. The property of the lands which are assigned them, and those which they may buy or obtain through any legal course, are guaranteed by this law.

Article 4. The colonist for the term of five years, counted from the day that the new town is started, will be free from paying any taxes whatsoever, excepting those of the municipalities.

Article 5. To form a colony from the River Bravo to the South, one hundred families are necessary, and fifty for the lands between the river and the Nueces.

Article 6. The undertakers (*empresarios*) in either case will have three lots, six sitios of pasture land, and six labores. If they increase it with another equal number of families, the grants of pasture lands and labores will be doubled, and the Government will arrange its grants in this proportion, but never exceeding thirty sitios and thirty labores to each contractor.

Article 7. The contractors for colonization will make their solicitude to the Government themselves, or through an agent sufficiently authorized, setting their pretensions and conditions in writing, and the contracts that are celebrated in this way will be guaranteed by this law.

Article 8. The Government will take care that the new towns are situated as near as possible, that they be situated in the best positions both for commodity and beauty; that their boundaries and those of private property be fixed, and that the surveyor and commissioner named for measuring and giving possession be paid by the State.

Article 9. All Mexicans or foreigners who may wish to become a resident in any of the towns of the State, will present him to the respective *Alcalde* and verbally state his intention, and without any other requisite but this, and swearing to obey the laws of the country, he will be looked on as a resident; his name will be inscribed in a book called Register, stating his age, state, country, religion, and profession, giving immediate notice of it to the Chief of the Department, and he to the government.

Article 10. The government will order one lot and one labore, or one sitio of pasture land, from the wild lands, to be given to him, according to what he may wish to dedicate them.

Article 11. To the heads of families who may settle in any town of the State, one lot will be given to each of them; and if they dedicate themselves growing cattle, one sitio of pasture land and one labore; and five labores if they only dedicate themselves to farming. Families losing their parents on their way will be entitled to the same rights as if they were living

Article 12. After a continued residence of two years the inscribed will be considered as a citizen capable of holding municipal offices without the necessity of a letter of naturalization.

Article 13. For the measurement of lands a vara of three geometrical feet will be used. The labor will consist of a square of one thousand varas on each side. The lots and *Egidos* of each new town will be arranged by the government.

Article 14. The lands denouncable for colonization are all the wild lands of the State; those belonging to religious or temporal communities, and those of the haciendas known as "Del Santo and Ex Con-dado de Sierra Gorda."

Article 15. The lands which the possessors themselves occupy, with their property, will be excepted from the foregoing article, not including, however, those held under a lease, as those are denouncable, and the tenants will have the preference to them for that object.

Article 16. The government will not admit any opposition on the part of the owners of these lands; and if, in the term set forth, the agent they have to appoint should not appear for the indemnization, it will order the council to make the appointment, and that the amount be deposited in State treasury until it is claimed.

Article 17. The citizens of the State who may wish to enter into colonization projects in conformity with the 6th, will have gratis the lands that for this object are designated by this law.

Article 18. The denouncements made by the government for lands intended for raising cattle will be admitted: 1st. If the one who denounces is not owner of large possessions. 2d. If in the judgment of the government it is shown that the land is needed, and the denouncer is made to occupy each sitio with at least one hundred head of tame cattle (ganado vacuno), or horses, in the precise term of four months from the date in which the title is given; but even in these cases the government will not grant more than six sitios to any one individual.

Article 19. The lands granted by this law cannot be disposed of until they have been possessed ten years, and they can never pass into the hands of the clergy.

Article 20. The government will give the necessary publicity to this law, and will arrange its execution.

Article 21. The laws of the 15th December, 1826, and 24th of August, 1831, are opposed to this.

Be it communicated to the executive power of the State, who will have it printed, published, and circulated. Carimiro Guiller, Deputy President; José Ignacio de Saldana, D. Secretary; Juan Bautiste de la Garza, D. Secretary. I therefore order it to be printed, published, circulated, and to have it put in force. City of Victoria, 17th of November, 1833. Francisco Vital Fernandez; Gabriel Arcos, 1st Officer.

It is a copy of the original, which is in the archives of this office; is faithfully corrected, and is taken at the request of Mr. E. Basse, in compliance with the decree of the government, which will be found on the margin of the petition: it written on four leaves, and sealed with the seal of this office; the last being signed and the other marked with a flourish by the undersigned, 1st officer, acting as secretary.

JORGE HOPHAM,
1st Officer.

Explanation of the Colonization Law of the 15th December, 1826.

Government of the State of Tamaulipas. Circular: The Constitutional Governor of the State of Tamaulipas to all its inhabitants: Know that the Congress of the same State has decreed the following:

Number 34. The Constitutional Congress of the free State of Tamaulipas has decreed the following:

Explanations of the Colonization Law of the 15th December, 1826.

Article 34. The Constitutional Congress of the State of Tamaulipas, to illustrate the law of colonization, to clear away the doubts that might arise from the obscurity of some of its articles, to give impulse to the population and the riches, and to avoid delays in deciding the denouncements, from which delays damages may be sustained by the parties, decrees as general law what follows:

Article 1. To obtain lands by denouncement, the possessor of them will be preferred, the laws that decreed it being in force.

Article 2. To decide on the right of selection, the government can ask for the information and advice it may think best, but will not consent that the memorials be lengthened with useless representations, and it is sufficient for it to listen to them once to give the decision.

Article 3. The exception to the right of property being opposed, the opposer will manifest his titles of acquisition, and in accordance with the *the* government will order the survey and demarcation of the land to be made, and which is to show the summoning, the denouncing, and the interested party, and with the result his opposition, as far as the lands beyond the boundaries are concerned, will be considered as ended; and if the denouncer insists on the denouncement of the lands comprised in the titles, it must be decided by an ordinary civil lawsuit.

Article 4. When the titles appear obscure, or present doubts of their legitimacy, the attorney (fiscal) of the public treasury must be consulted before the demarcation ordered in the foregoing article. The denouncer will be considered as the legitimate and principal party, and with him the suit must be carried on in case any is commenced, informing him of all the proceedings.

Article 5. If any denouncer abandons the suit he will be condemned in costs and damages, and will lose his right of preference to that land.

Article 6. Any one opposing property and is defeated in suit, or in the *the* demarcation that is effected, will be condemned in the costs, and if he has been a malicious usurper he will pay the rents that may be assigned by arbiters, one named by the government and the other by the occupier. In case of disagreement, the government will name a third.

Article 7. Where lands are denounced and opposed for property, the possession will not be given to the denouncer until through a civil suit, or by demarcation, as the case may be; the opposition is put at rest.

Article 8. If the opposing property should be defeated, the one who obtains the lands must pay him for the improvements.

Article 9. The State will not henceforth appoint any agent, and if the denouncer gains the point, his opponent will reimburse him the cost and damages, reserving the right of appeal and other memorials, and which the attorney will make out in view of the proceedings that will be handed to him for that object; and if he has no-

thing to say he will return them through the government to the respective judge.

Article 10. The denouncements made by foreigners will not be admitted without they become resident of the State. Mexicans will be preferred in their denouncements to foreigners. Should there be any disagreement between foreigners themselves or Mexicans who are not residents of the State, the one residing in town, in jurisdiction of which the land lies, will be preferred; and in case they all reside in it, the one who denounced first will be preferred; but in all cases the possessor himself will be preferred, as it is expressed in the 1st article; and the one bearing the character of possessor and denouncer will be preferred to any having only one or the other.

Article 11. The excesses that may result from the measurement of the lands will be given to the possessor, he paying for them; and if he does not want them, the government can have them adjudicated to some one else.

Article 12. Any one who may obtain lands anew (*de nuevo*) can enjoy them themselves; and in case he does not do so for three successive years, he can be made to dispose of them to whomsoever may demand and pay them.

Article 13. The delays in the proceedings will not in any manner injure the right of the denouncer.

Be it communicated to the executive power of the State, who will have it printed, published and circulated. José Ignacio Saldaña, Deputy President; Antonio Canales, Deputy Secretary; Lorenzo Cortina, Deputy Secretary.

I therefore order it to be printed, published and circulated, and to have it in force.

City of Victoria, 13th of November, 1831, 8th of the installation of the Congress of this State. Francisco Vital Fernandez; José Guadalupe de Samano, Secretario.

It is a copy of the original, which is in the archives of this office, which is faithfully corrected, and is taken at the request of Mr. E. Basse, in compliance with the decree of the government, which will be found on the margin of the petition; it is written on three leaves, sealed with the seal of this office; the last being signed and the other marked with a flourish by the undersigned, first officer, acting as secretary.

City of Victoria, June 28, 1850.

JORGE HOPHAM, 1st Officer.

Translation of a decree ordering the Ayuntamiento of Matamoras to measure the lands for Ejidos.

Secretary's Office of the Congress of the State of Tamaulipas.

Excellent Sir: In to-day's session the Honorable has decreed the following: The government, in the use of its faculties, will see that the civil authorities of Matamoras will compel D'a Rita Giron and D'a Francisca Cabazos to obey the constitution and the laws. If these ladies are notified the 2d and 3d time without their naming the corresponding arbiter for the indemnization of the lands which are to be taken for ejidos, the Ayuntamiento will proceed to have them

measured and used without further summoning. When the time arrives in which the parties or their heirs will ask for the indemnization of their lands, and are willing to name the arbiter spoken of in the 13th article of the constitution of the State, a new measurement will be effected if they desire it, and the land they asked for before will be given them as a recompense. This resolution must be communicated to the government, that in conformity with it in the present case it may serve as a general rule in any other case that may occur, until a decree may fix the bases that are to be observed; which I communicate to your Excellency, by order of the Honorable Congress, for your knowledge and action thereon, returning the document at the same time. God and Liberty. City of Victoria, October 13th, 1826. 4th. Diego de Inojosa, Deputy Secretary. To his Excellency the Governor of the State. On the margin: Inserted to the Ayuntamiento of Matamoras, and circulated throughout the whole State on the same date.

It is a copy of the original, which is in the archives of this office, is faithfully corrected, and is taken at the request of Mr. E. Basse, in compliance with the government decree, which is to be found in the margin of the petition; it is written on two sheets, and stamped with the seal of this office, the last signed, and the other marked with a flourish by the subscriber, 1st officer, acting as Secretary.

JORGE HOPHAM, 1st Officer.

City of Victoria, June 28, 1850.

Deed of One Labor of Land sold by Andres Pineda to Don Manuel Trevino.

In the city of Matamoras, on the tenth day of October, one thousand eight hundred and forty-eight, personally appeared before me, the Notary Public, and witnesses, Don Andres Pineda, a citizen of this place, to me known, and who says: That since the year one thousand eight hundred and forty-five he entered into a contract with Don Manuel Trevino, likewise a citizen of this place, to sell to the said Trevino one labor which belonged to him, situated on the other side of the river, at a place called Laguna de Onofre; and that, to close the said contract, he covenants to make a true and valid sale to Don Manuel Trevino of the aforesaid labor, which he the seller, purchased from Don Onofre Rebalcaba, and which measures one thousand varas on the east side, being bounded by Doña Catarina Vela and Don Francisco Fragosa; on the north four hundred varas, bounded by unimproved lands; on the west two hundred and fifty varas, bounded by Leandro Martinez; and on the south eight hundred and fifty varas, bounded by the purchaser and Don José Ignacio Flores; which labor he sells to the Don Manuel Trevino, with all its entrances, outlets, uses, customs, rights, and titles, which it has and belong to it, free from all encumbrances, in the sum of two hundred and fifty dollars, which he has received from the aforesaid purchaser, in lawful money, the receipt whereof he hereby acknowledges, renouncing the laws which require a proof of it, exceptions to the nonnumeratum pecunia, fraud, and any other that might apply to the case, giving him a

receipt in all its forms. In view of which, he hereby transfers unto and vests in the purchaser, his heirs, and assigns, &c., all rights of possession and titles of every kind that he had to said labor, that they may hold or possess, to dispose of at their pleasure, in virtue of this deed, which he gives to show that he has acquired and holds possession of, without the necessity of any other proof, from which he is hereby relieved. And he hereby binds himself to guarantee and secure this sale, in all its forms and rights, with his present and future property and rents, submitting to the justices and the tribunals of the Republic of Mexico for them to compel him to comply with all the rigor of sentence that has been passed in judgment, or as may be most convenient; and he declares that the value and just price of said labor is that of the two hundred and fifty dollars which he received, as he has not found any one to give him more for it; and that is worth more, or may in future be worth more, he hereby makes a donation of that excess to the purchaser, freely, purely, perfectly, and irrevocably, whilst living, with all the insinuations, clauses, requisites, and firmness that may be necessary to give it force, and especially renouncing the first law, eleventh title, fifth book of the Abridgment, which treats on things that are bought, sold, and lent, and of other contracts in which cessions are made for more or less than their true value, and the four years for demanding a recession of them, or that the difference be paid, and which by these presents he considers as complied with. This he stated, confirmed, and signed in presence of the citizens Don Nabor Lopez de Oropesa, Don Francisco Ramirez, y Don Leonardo Espinosa, witnesses. Andres Pineda. Before me, Joaquin Arguelles, Notary Public.

It was taken from the register on the day of date, to be given to the purchaser. It is written on one sheet of the third seal, for the present year. In witness whereof, and that I was present when it was drawn up, I mark and sign it.

JOAQUIN ARGUELLES,
Notary Public.

Testimony of several Documents relative to a Labor of Land on the Left Margin of the River, in favor of Don Tomas Famosos.

Fourth seal. Twelve and a half cents. Years one thousand eight hundred and forty-eight, and one thousand eight hundred and forty-nine. Most illustrious Ayuntamiento: Tomas Famoso, of this city, to your honorable body would respectfully state, that there exists on the left margin of the river, in the village of Brownsville, one labor which in 1839 was adjudicated by your honorable body to Don Santos Ibano, and that it having afterwards become the property of Don Encarnacion Treviño, my deceased father obtained it from him by way of purchase, and that the deed has unfortunately been mislaid. And as it is important that the heirs of my late father, whom I represent, should have evidence of the adjudication of said land, in order that they may be able to show their rights to it before whom it may correspond, therefore I implore your honorable body to have the documents in the archives corresponding to the year 1839 searched,

and, if found, that a certified copy of the document relative to the adjudication of said labor be given to me. It is a just grace that I demand, swearing, &c. Matamoras, July 13th, 1849. Tomas Famoza.—Council Chamber of the Illustrious Ayuntamiento of Matamoras, May 4th, 1850. In this day's session, after reading the foregoing petition, with the documents that accompany it, in which Don Tomas Famoza shows his rights to be furnished with a copy of the original title of one labor which his father obtained by purchase from Don Encarnacion Treviño, situated on the left margin of the Bravo, the honorable body ordered the copy to be given, inserting in it this petition and the other documents belonging to it. It was so ordered by the honorable body, and signed by the President and Secretary, San Juan de Ramireno, thirtieth day of July, one thousand eight hundred and forty-eight.—Before me, the citizen José M'a Vera, Justice of the Peace for the District of Santa Rita, Cameron county, State of Texas, personally appeared Don Doreto Zamora, bringing with him Don Santos Ybarro, both citizens of Matamoras, the first requesting that the testimony of the second be taken in due form, under oath, which I received on his swearing to tell nothing but the truth. Ibarro stated that a certain piece of land situated on this side of the river, bounded by the lands of D'a Catarina Vela and Don Juan Vela; that the land was granted to him by the authorities of Matamoras; that at his request it was given to him; that the surveyor who measured it for him was Don Bartolo Pasmato, and that its true owner now is Don Encarnacion Trevino, to whom deponent has already sold it; that all he has said is the truth, which, according to his oath, he affirms and ratifies, and further states that he is a married man and eighty years of age, and does not sign because he does not know how to write. I signed for him, in presence of two witnesses, all of which I certify. José M'a Vela. Witnesses: Francisco Campbell and Francisco Buentillo.—The citizen Manuel Trevino Canales, residing in this city, certifies that the labor obtained by my brother, Encarnacion Trevino, through purchase from Don Santos Ibarra, situated on the left margin of the Bravo, where the city of Brownsville stands, was by me sold in the early part of the year 1843, in my brother's name, to D'n Doreto Zamora, a citizen of this city, for the sum of two hundred dollars; and to make it evident, at the request of the heirs of the said Zamora, I give the present, which I sign in presence of witnesses, in the city of Matamoras, on the 24th day of the month of October, 1849. Manuel Trevino Canales. Witnesses, José de la Luz Romero and Manuel Vela. Third seal. Fifty cents. Years one thousand eight hundred and forty-eight, and one thousand eight hundred and forty-nine. Sala. In the city of Matamoras, on the twenty-fourth day of the month of April, one thousand eight hundred and fifty, before me, the Notary Public and witnesses, appeared Don Encarnacion Trevino, a citizen of this place, to me personally known, and stated that since the year one thousand eight hundred and forty-three he sold, through the agency of his brother, Don Manuel Trevino Canales, to the late Don Doreto Zamoza, of this same city, one labor, situated on the left margin of the river Bravo, within the exidos which were then recognized by

this city, and which had bought from Don Santos Ibarro, as the aforesaid subsequently before D'n José M'a Vora, Justice of the Peace for the District of Santa Rita, on the same side of the river, that the sale was effected for the sum of two hundred dollars, which he received from the aforesaid in lawful money, and of which sum he hereby acknowledges the receipt, renouncing the proof, law of delivery, exceptions to the nonnumerata pecunia, fraud, and the others relative to the case, and giving him a receipt in form, in virtue of which he renounces all the rights and titles that he had to own said labor, and vests all those rights and titles in the purchaser, his heirs and assigns, &c., who actually represent his rights, that they may hold and possess, and dispose of it at their will, in virtue of the present deed with which it is perfected, and which I give in sign of delivery, and giving it force from the date of sale, showing that they have acquired the property, and hold possession without and proof, from which they are released, binding themselves to the security and indemnity in the form prescribed by law, with all their present and future property and rents, relying implicitly to the Justices and Tribunals of the Republic of Mexico for them to compel him to its fulfilment with all the rigor of judgment that has passed or been assented to on trial, or as may be most convenient. He declares that the true and just price of the labor at that time was two hundred dollars, which he received; and that if it was worth more, or may be worth more, he hereby makes a donation of said excess in favor of the heirs of the purchaser, Don Doreteo Zamoza, truly, purely, perfectly, and irrevocably, which the law calls, while living, with all the insinuations, clauses, requisites that may be necessary, to give it force; and especially renouncing the first law, eleventh title, fifth book of the Abridgment, which treats on things that are bought and sold or exchanged, and of other contracts in which an injury might be sustained, if the true price is more or less, and the four years fixed for recession of them, or that the difference be supplied, all of which I hereby consider as complied with. He thus stated, confirmed, and signed, in presence of the citizens Don Francisco Valdez, Don Feliz Buentillo, and Don Calistro Trevino, witnesses. Encarnacion Trevino. Before me, Joaquin Arguelles, Notary Public. It was taken from its register on the day of its execution, to be given to Don Tomas Zamora, son of the purchaser, written on one sheet of the third seal for the present year. In witness whereof, I make and sign it. Joaquin Arguelles, Notary Public. Fees, with the original, four dollars. Third seal. Twenty-five cents. Years one thousand eight hundred and thirty-six and one thousand eight hundred and thirty-seven. Most Illustrious Ayuntamiento: Santos Ibarro, a citizen of this city, before your honorable body respectfully appears, and says, that in the month of November, 1834, I bought of Bernabe Flores, a citizen likewise of this place, a labor on the other side of the river, on a line with the road that goes to Brazos Santiago, which labor, according to the measure which the Surveyor for the Illustrious Ayuntamiento effected in the year 1835, resulted as follows: its from the North to the South one hundred and eighteen varas, bounded on the north by the labor belonging to Don Pabrico Lopez, and on the south

by that belonging to D'n Doreteo Zamoza, its depth from east to west two hundred and twenty-four varas, bounded on the east by the road to Brazos Santiago, and on the west by the said river, of which I advise the Illustrious Corporation that in virtue of it your honorable body may order that the corresponding title of ownership be given to me on my paying the established fees. I implore your honorable body to grant my request, and by so doing confer grace and justice, and I swear that I do not act through malice. Matamoras, September 13th, 1839. As I do not know how to sign, I use my cross. Council Chamber, Matamoras, September 14th, 1839. To the Syndic Attorney, for him to act as corresponds. Juan Longo. Garza. Marcos Galindo, Secretary. The Syndic Attorney informs that, having gone to reconnoitre the labor petitioned for by Don Santoz Ibarro, and having proceeded to measure it in company with the surveyor of the Illustrious Ayuntamiento, it resulted in conformity with the statement made in the petition. Of which I inform the Illustrious Ayuntamiento, that it may act as it may think proper. Matamoras, October 5th, 1839.

URBANO PEREZ.

It is a true copy of the original which is filed in this office, and that the illustrious Ayuntamiento gave orders to be taken on the 4th inst. and given to D'n Tomas Zamoza. It is written on five leaves of common paper, as none of the corresponding seal be found. Office of the Secretary of the Illustrious Ayuntamiento of Matamoras, May 15th, 1850.

JUAN PRADO,
Secretary.

Deed of sale of one labor by D'n Antonio Longoria, as Syndic of the Creditors of D'n Juan Treanor, to D'n Jacobo Mussina.

The Notary Public, and of the first tribunal of this city, who marks and signs the present,

Certifies that the proceedings of the meeting of creditors commenced before the late mercantile tribunal of this port, on the 24th of August, eighteen hundred and forty-two, with the petition of the merchant, Don Juan Treanor, requesting time from his creditors, and in case of refusal giving up his property, the following is to be found on the first page:

Enumeration of Property.

In merchandise that I have in the retail store that I established on Comercio Street, by a rough calculation, as the time would not allow of an exact inventory	\$5,220 00
One labor planted with cotton, which was lately appraised in presence of D'n Hugo Devine, on account of the suit he has brought against me.....	1,584 00
One house, situated in this city, which I had built at my expense of my wife's land.....	1,000 00

In showy furniture.....	\$300 00
One gentle horse \$60; one yoke of oxen twenty dollars, sixteen hoes and four farming axes twenty-two dollars	102 00
Total amount of property.....	<u>8,206 00</u>

And at the request of Don Antonio Longoria, and by order of the Judge of the first tribunal, Don Carlos Francisco Galvert, I give the present, certifying at the same time that the said Antonio Longoria, who, as Syndic of the creditors, made the said request, was invested with that character and authority by a majority of the creditors, to sell at private or public sale the real estate and furniture, which were liquidated, and belonged to concourse of creditors, a more minute account of which will be found in the act which was drawn up on the twelfth of August, one thousand eight hundred and forty-six, and subscribed in the proceedings to which I refer. Matamoras, December nine, one thousand eight hundred and forty-eight.

JOAQUIN ARGUELLES,
Notary Public.

In the city of Matamoras, on the 15th day of December, one thousand eight hundred and forty-eight, personally appeared before me and witness, Don Antonio Longoria, a citizen of this place, to me known, and as Syndic of the creditors of Don Juan Treanor, by whom he is duly authorized, said: that by these presents he consents to make a true sale and transfer forever from the right of inheritance to Jacob Mussina, who is actually residing in this city, one labor, situated on the left of the Bravo, which the above Treanor gave up, among other property, to his aforesaid creditors, as is provided by the certificate which he gives to the purchaser, that he may add it to the copy which he may get of this deed; that said labor is composed, according to all the information he has been able to get, of one thousand five hundred varas long, and six hundred wide, more or less; is bounded on the north by the lands of the Egidos of this city, on the south by the labors of Don Miguel Salinas and Don Rafael Garcia Cabazos, on the east by the labor of Don Manuel Palacios, and on the west by the labor of Don Francisco Fragosa, and therefore under the title and purchase or donation by which the common creditor, Don Juan Treanor, may have obtained it, as it is not stated in the proceedings, neither has it been made known afterward; the seller sells it to Don Jacob Mussina, with all its entrances and outlets, rights and services that it has and belongs to it, free from all encumbrances, for the price and sum of one hundred and forty dollars, which he has received from the aforesaid Jacob Mussina, in lawful money, and of which he hereby acknowledges the receipt, renouncing the laws which require a proof of it, exceptions to the *non numeratum pecunia*, fraud, and any other that might apply to the case, and deeds in favor of the said Mussina, to most binding and effective for his security. In virtue of which, he hereby separates and takes away from the creditors whom he represents, all the power, title, or any other right whatsoever that

they had acquired to the said labor by the cession made to them by Mr. Treanor, and he renounces and transfers the whole to the purchaser, his heirs, assigns, &c., for them as their property, to hold and possess, or to dispose of at their pleasure, in virtue of this deed, which is given in sign of delivery, and which shows that he has acquired possession of it, and can hold it without any other proof, from which he is relieved. And the seller declares the present price and true value of the labor, on account of its abandoned condition, is that of one hundred and forty dollars, that he has received, as no one else would give more; and that if it is or may be worth more, he hereby donates the excess, whatever it may be, to the purchaser, freely, purely, perfectly, and irrevocably, whilst living, with all the insinuations, clauses, firmness, and requisites that may be necessary to give it force, and especially renouncing the first law, eleventh title, 5th book of the Abridgment, which treats on things that are bought and sold and lent, and of other contracts in which cessions are made for more or less than their true value, and the four years fixed for demanding a rescission of them, and that the difference be paid, and which by these presents he considers as complied with. And declaring, as he does declare, that the creditors whom he represents are not bound for the security or indemnification of this sale, and it only binds them to its validity and firmness, as per guarantigio* clause, which he considers as literally inserted. This he stated, confirmed and signed, in presence of the citizen Don Nabor Lopez de Oropesa, Don Leonardo Espinosa, and Don Jose Hernandez, witnesses. Antonio Longoria.

Before me,

JOAQUIN ARGUELLES,
Notary Public.

It was taken from the register on the date of its execution, to be given to the purchaser, written on one sheet of the third seal of this year, in faith of which I mark and sign it.

JOAQUIN ARGUELLES,
Notary Public.

A grant from the Ayuntamiento of Matamoras to Manuel Trevino.

JUNE 6th, 1840.

Most Illustrious Ayuntamiento. Manuel Trevino, of this city, through his memorial, appears before you, and says that, having no land assigned to him for a labor, and intending to dedicate himself to farming to enable him to supply the wants of his family, he therefore denounces the land which Don Prudencio Vela holds without legal titles, and which is situated on the other side of the river, bounded on the south by the channel opened to the same river, it being understood that the said Vela will give his consent to have it ceded. I likewise request that another piece of land, unimproved and joining the same, be assigned to me, that I may give the labor I wish to cultivate a better form and more amplitude. The said piece of land being a part of a labor denounced by Don Antonio Ibarro, and which you ordered the

* Applied to contracts, writings, or clause which empowered the Justices to cause it to be executed.

attorney to measure, since the third of September, one thousand eight hundred and thirty-six, and which has not been done to the present time, and for which reason I think I have the right to denounce. I therefore request of your honorable body to assign to me both pieces of land which I solicited for the purpose already stated, and I will pay the fees established by the municipal ordinances; it is a grace I implore, swearing that I do not act through malice. Matamoras, seventeenth of July, one thousand eight hundred and thirty-eight. MANUEL TREVINO. Council Chamber, Matamoras, twenty-third of July, one thousand eight hundred and thirty-eight. It was ordered to be sent to the second Syndic, Don Manuel Prieto, for his action thereon. F. Garcia. Juan N. de la Garza, Secretary. Illustrious Constitutional Ayuntamiento, proceeding to measure and mark the lands of the labor mentioned in the preceding petition, the citizen Antonio Ibarra opposed it on the *right of selection*, inasmuch as in the year one thousand eight hundred and thirty-six he denounced it, and the Corporation ordered it to be measured and marked for him, which is true, and is to be found in one of the denouncements, which the first Syndic informed me of. I therefore stopped the measurement until your honorable body decide upon the selection, at the same time offering my information, if necessary. Manuel Prieto, second Syndic Attorney. Council Chamber, Matamoras, twenty-eighth of July, one thousand eight hundred and thirty-eight. The Illustrious Ayuntamiento, in view of the foregoing information, at its session to-day, has determined to return the memorial to the petitions, so that if he thinks proper he may proceed to show his right, before the proper authority, to that part of the land to the cession of which the citizen Antonio Ibarra is opposed. F. Garcia. Juan N. de la Garza. I certify that the citizens, Manuel Trevino and Jose Antonio Ibarro, who are to me known, appeared before me at this tribunal, and both stated that they have agreed to divide the land mentioned in the foregoing petition, and in virtue of this agreement the said Ibarro makes no further opposition, and at their request I give the present in Matamoras, on the second of August, one thousand eight hundred and thirty eight, and to give it force I sign it in the presence of two witnesses. Juan Teteno. Witnesses, Nicolas Garcia and Rafael Gomez. Council Chamber, Matamoras, eleventh of August, one thousand eight hundred and thirty-eight. The Illustrious Ayuntamiento having seen, during two days' session, the above certificate, ordered the petition to be sent to the second Syndic Attorney, that he may act in accordance with it. F. Garcia. J. N. de la Garza, Secretary. Illustrious Ayuntamiento: Micaela Garcia de Trevino, with due respect before your honorable body appears, and says that, as my husband, Don Manuel Trevino, has denounced a piece of land for labor on the other side of the river, and being in actual possession of it, he petitioned that illustrious Ayuntamiento to have it measured and adjudicated to him, and that on account of the absence of one of the parties, with whose lands it is bounded, neither were affected, remaining as before in possession, but without titles, and it was fenced as well as possible to cultivate it; but a few days ago, the widow, Dona Feliciana Garcia de Zalazar, whose labor is bounded by mine, requested to have hers measured; to this

effect she applied to the first attorney, Don Manuel Prieto, who consented, provided my brother-in-law, Don Andres Pineda, whose property likewise joins that of the widow's, should be present to act for me and himself: it was then agreed with the attorney that they should meet, on the other side of the river, on Thursday night, and at day-break on Friday morning to commence measuring; but as the said Sor. Prieto did not go, my aforesaid brother returned to this city and was taken sick, for which reason he could not attend the measurement, which was effected yesterday morning: therefore, after Sor. Prieto promised me that both myself and the petition would be satisfied, I named my brother-in-law, Dn. Encarnacion Trevino, and my son Telosforo, to represent me in the measurement, which they thought was done with partiality, and protested against the injustice, Sor. Prieto telling them to retire, and calling my son an intruder: they immediately protested that the measurement was null and void, and I now ratify it, protesting not to be satisfied until it is measured by another attorney, and I will prove by those whose lands join that of the widow's, that formerly she did not own as much land as she now occupies, and consequently less than that which they wish to adjudicate to her. I therefore do petition your most honorable body not to let that measurement go into effect, and you will do an act of justice and grace. I answer, &c. Matamoras, sixth of July, one thousand eight hundred and thirty-nine. Signed for my mother. Telesforo Trevino. Council Chamber, Matamoras, seventh of August, one thousand eight hundred and thirty-nine. In compliance with the orders of the Corporation I returned this petition to the interested party for her to apply to the Prefecture of this district. Jorge L. de Lara. Marcos Galindo, Secretary. Council Chamber, Matamoras, thirty-first day of August, one thousand eight hundred and thirty nine. The petition being returned by the Prefecture, the Ayuntamiento, in an extra session of this day, and in virtue of the explanation made by the Government, that it can deliberate on land matters, decreed: That to avoid litigation, Don Manuel Prieto, Syndic Attorney, and Alderman Don Rafael Garcia Cavazos should go to the parties and propose a compromise that might be acceptable to both. Juan Longoria Garcia. M. Galindo, Secretary. The second Attorney of the Ayuntamiento would inform it that he, in company with the mediator, went to propose a compromise between the contending parties, Dna. Feliciana Garcia, widow of the late Don Vicente Salazar, and Doña Micaele Garcia, but that it could not be effected, as the first named would not accept the propositions made by the second part, and which were, that the fence already mentioned on the other side of the ditch should remain in favor of Doña Micaele, and that as it belonged to Doña Feliciana the others should replace it, taking for their boundary line the ditch which the Corporation had opened on the other side of the river; besides, that this disposition ought to be observed by order of the same Corporation; but the Attorney, Don Manuel Prieto, proceeded to measure and mark for the said Doña Feliciana lands that lay beyond the line which the Corporation requires to be observed on both sides by all who may be placed in the same position as the litigants, particularly as Doña Micaela suffers from the want of water,

not able to obtain it from the river without permission from those whose lands join hers. I therefore think that the parties whose lands join should have a space between them of at least twenty varas, not only for the use of the parties themselves, but for that of the public, ordering them to limit themselves to the position which was at that time pointed out and recognized, and which is still in force, and I leave it to the illustrious Corporation to act as it may think most proper. Matamoras, ninth day of May, one thousand eight hundred and forty. Let this document be returned to the Syndic, that he, in company with the Surveyor, may proceed to measure the labor in question, and that of D'a Feliciana Garcia, giving a separate statement of each, and to leave a space of twelve varas between them for the common use of the parties and they who have lands adjoining, and may wish to get water. It was thus determined, and signed by the President and Secretary. Pedro de la Garza. M. Galindo, Secretary. The attorney who subscribes would set forth, that in company with the interested party he proceeded to survey the labor spoken of, and having commenced the measurement, Da. Micaela Garcia willingly consented to give the requisite number of varas for the space to be left between them: the two labors, on measuring the first line, which runs south as far as the river, was five hundred and sixty-four varas, being bounded by the lands belonging to Don Ignacio Flores and Da. Feliciana Garcia; they have a line between them, on the East, five hundred and fifty-eight varas, and is bounded by the labor of Dn. Onofre Rebalcaba, a road between them, and having arrived with the measure to the North, it resulted in five hundred and seven varas, and is bounded by unimproved lands, although I was told that for some time past those woods were claimed by Dn. Antonio Ibarro; but as he has never fenced or cultivated them, he has lost the right of possession, in accordance with the 41st article of the municipal ordinance; and continuing to measure towards the West until I came to the line staked out for the boundary of Da. Feliciana, it resulted in seven hundred and three varas, and is bounded by the aforesaid Da. Feliciana, widow of the late Salazar, and the road which runs from the pass of the River Anaquita, all this notwithstanding that Don Felix Fuentes told me that of the last measurement a piece belonged to him; but as he has not cultivated the land he claims as his, and which was granted six or seven years ago at the time of measuring it, I told him that he had lost all rights to it, as he had let the time which the law fixes pass; all of which I submit to your illustrious body, that you may act as may be most convenient. Matamoras, fifth day of June, one thousand eight hundred and forty, Manuel Porras, second Syndic Attorney. Council Chamber, Matamoras, sixth day of June, one thousand eight hundred and forty. The illustrious Corporation being informed, at its extra session of this day, of the preceding documents, after examining them, determined that the lands petitioned for should be adjudicated to the petitioner; therefore, from this day he remains in possession of them under the boundaries designated by the Syndic in the intelligence, that the petitioner will comply with the provisions of the forty-first article of the municipal ordinances, and in order that he may have

clear and legitimate titles to the property, they will be made out for him by the Secretary of the Corporation on his paying the expenses thereon. It was so determined and signed by the President and Secretary. Pedro de la Garza President. M. Galindo, Secretary.

This is copy of the original to which I refer. Office of the Secretary of the Ayuntamiento, ninth day of June, one thousand eight hundred and forty.

M. GALINDO,
Secretary.

I, the Notary Public who marks and signs the following, do certify that the citizen M. Galindo, by whom the foregoing statement is authorized, was, as he styles himself, the Secretary of the Municipal Corporation of this city at that time, and that his signature is the same which he used in this kind of document, and which has always been recognized in both judgments. Matamoras, eleventh of October, one thousand eight hundred and forty-eight.

JOAQUIN ARGUELLES,
Notary Public.

On the outside cover.

[Translation of instruments of conveyance of one labor of land from the corporation of Matamoras down to Juan Galan.

JOHN BUCHANAN,
Translator.]

Petition.

Third Seal.

[SEAL.]

Two Reals.

For the years of one thousand eight hundred and thirty-six and one thousand eight hundred and thirty-seven.

Most Illustrious Ayuntamiento :

The citizen Maximo Sierra, resident of the City of Matamoras, appears before your lordships in the most respectful manner, and says that, wanting a piece of land to cultivate and obtain therefrom the necessary subsistence for his numerous family, he prays that your lordships will have the goodness to grant him one, which is on the other bank of the river, in which can be planted one-half of a fanega of corn, more or less, the said piece of land being bounded east by the labor of the citizen Marzario Garza, west by the river, north by the labor of the citizen Felipe Gloria, and south by the labor of the citizen Nicolas Cabazos ; and being persuaded that the possession of the municipal vacant lands (egidos) is not concluded, he desires the approbation of the Illustrious Corporation that it may be of use to him whenever that succeeds, holding for the present under permission from the agent of Doña Francisca Cabazos, proprietress of those lands, by which permission he shall receive mercy and grace ; he therefore

prays that your lordships will deign to accede to his solicitude as of necessary right, &c.

City of Matamoras, April 14th, 1834.

At petitioner's request,

NABOR RODRIGUEZ.

Order of survey, &c.

Hall of the Consistory, April 14th, 1834.

To the citizen Sindico: that he proceed to the measurement of and fixing of limits to the piece of ground mentioned, informing the corporation of the result, in order to determine as may be necessary, exacting from the applicant the municipal fees thereon.

MANUEL GARCIA.

FRANCISCO MAYORGA,

Secretary.

Matamoras, April 16th, 1834.

The procurador, having proceeded to the measurement and fixing of limits to the piece of ground mentioned in the preceding petition, in company with the applicant, reports: I measured by the course north on the other bank of the river, beginning the measurement from south to north along the boundary of the labor of the citizen Marzario to where it terminates at ninety-one varas; from thence west along the boundary line of citizen Felipe Gloria's labor to where the measurement terminated on the bank of the river, at six hundred and twenty-seven varas; thence south along the margin of said river to where the measurement terminated at one hundred and forty-three varas; from thence east along the boundary line of the citizen Manuel Cabazos' labor to where the measurement terminated at the beginning point six hundred and seventy-one varas measure for the applicant to be cultivated, being admonished of the municipal dues, all of which I submit to your lordships' consideration that you may dispose of the same as seems to you necessary.

JUAN LONGORIO,

"Sindico."

Title.

Matamoras, April 19th, 1834.

The Illustrious Ayuntamiento of this town, acting on the preceding information from the "Sindico Procurador," and being approved, resolved in this day's session that the citizen Maximo Sierra remains from and after this date seized with the possession "amparado" of the land as measured and bounded, that he may possess and enjoy the agricultural fruits thereof, as has been petitioned for, provided that no citizen shall be prejudiced thereby, and have paid the measurement fee established for creating of rights, with the understanding that it cannot be alienated, the right not being complete, but can alienate or sell the right of possession conceded to him, having to pay an acknowledgment and for the use thereof twelve reals, to be paid on the

first day of April of each year to the corporation having the original in its archives, and delivering a copy thereof duly testified to the party, if requested, that he may secure, their lordships having resolved and decreed it thus, the president and secretary signing it.

JUAN LONGORIA Y LERNA.

FRANCISCO MAYORGO,

Secretary.

Certificate.

This copy is equal and conformable to its original, which appears in the records for the one thousand eight hundred and thirty-four, existing in the archives of the Illustrious Ayuntamiento now in my charge, and I have taken this copy to deliver it to the party, being written on two full sheets, corresponding to the paper of the third seal.

Matamoras, June 3d, 1834.

FRANCISCO MAYORGA.

Translation.

Copy of the original instrument of sale of one labor of land conveyed by Don Macsimo Sierra to Doña Catarina Vela.

20 Rials | Third Seal [L. s.] Two Reals. |

for the years one thousand eight hundred and thirty-six and eight hundred and thirty-seven.

Corrected.

In the City of Matamoras, on the twenty-third day of the month of January, in the year one thousand eight hundred and thirty-seven, before me, the Notary Public and witnesses, appeared D. Maximo Sierra, resident of this place, to whom I give faith and whom I know, and declares by this present instrument that he grants by real sale and alienation, and perpetual inheritance ("juro de heredad") forever, in favor of Dona Catarina Vela, resident of the same place, one labor of his land ("propriedad") situated in this jurisdiction and vicinity, called "Anaureta," and is bounded on the east by Don Marzario Garza, on the west by the river Bravo, on the north by Don Felipe Gloria, and on the south by D. Nicolas Cabazos, being the same that he received by donation from the illustrious Ayuntamiento, as appears by the instrument accompanying this act, and delivered in my presence, and to which I give faith, which labor he conveys, with all its entries and outlets, uses, customs, rights, and services that it may have or thereunto belonging, free from all obligation, as certified by the present secretary, ("escribano,") as appear by the books of liens, ("hipoteccas") in his charge, for the price and sum of one hundred dollars, which he has received from the purchaser in current money; and, that she may hold the same against trespass or injury, he hereby makes delivery, renouncing the proof, laws of restitution, exception, "non numerata pecunia," fraud, and all others, and acknowledges receipt in form, by virtue of which he dispossesses himself, desists, abandons, and withdraws ("aparta") from the right of prop-

erty, possession, use, usufruct, dominion, ("senorio,") and all actions real and personal, profits, distribution, or dividend, ("mistas,") either direct or in expectancy, which to said labor thereunto belongs, cedes and transfers all into and in favor of the purchaser; and, that she may, in her own right, if there be cause, as her property, possess, sell, and alienate, as her own free will, ("voluntad,") by virtue of this instrument, which is executed in proof of real delivery, and by which appears the acquisition of possession without the necessity of other proof, of which he relieves her, and binds himself to the security and guarantee of this sale, in all form in right, by his property, real and personal, rents, &c., present and future, by authority of and submission to the judiciary and tribunals of the Mexican nation, in order that its completion ("cumplimiento") be enforced with the rigor of a sentence consented to and passed by authority of ("cosas juzgado") a judgment, or in any other manner may be required. And he declares that the just value and price of the aforesaid labor is that of the one hundred dollars that he has received, not having been offered more by any other person; and if it be worth more, he can of the excess, let the sum be more or less, donate in favor of the purchaser, entirely, perfectly, purely, and irrevocably, and the right called, ("intervivos,") with all the insinuations, stipulations, requirements, and securities that for its validity may be necessary, and with the express renunciation of the law first, title eleventh, book fifth of Recopilation, which treats of sales, purchases, and exchanges, and of all other laws of contracts in which there be ground for damages in more or less of the just value; and of the quadrennial, within which time the annulling of the same or a suppletory for the just value thereof must be demanded, and that he yields the same as expired, as if it really were so. Thus he asserts and hereby conveys, ("otorgo,") without signing, declaring that he knows not how; it was, therefore, signed at his request by one of the witnesses, who were Don Hilario de Mesa, Don Joaquin Arguelles, and Don Ant'o Mazola, residents and present. By request, and as witness.

JOAQUIN ARGUELLES.
Per PEDRO P. PELAEZ.

Notarial Certificate.

This is conformable to its original, which remains among the public documents in my charge, to which I refer, and have taken this copy on stamped paper corresponding to the same date with the conveyance, to deliver it to the purchaser.

[NOTARIAL SEAL.]

BER. PEDRO P. PELAEZ.

*Translation of Transfer of one labor from Catarina Vela to Juan Galan.
Correct.*

In the City of Matamoras, on the seventeenth day of the month of June, in the year one thousand eight hundred and forty-eight, before me, the Notary Public and witnesses, appeared Dona Catarina Vela, widow, resident of the same place, whom I know and to whom

I give faith, and says, that by this present instrument she grants by sale and alienation, perpetual and hereditary right ("juro de heredad") forever, in favor of Don Juan Galan, resident of said place, on labor of her property, situated on the other bank of the River Bravo, the dimensions being the same, is given in the instrument of acquisition which accompanies this act, and delivered to the purchaser, by which the aforesaid labor was purchased by the assignee of Don Maximino Sierra, said labor being bounded east by Don Narzario Garza, west by the River Bravo, north by Don Felipe Gloria, south by Don Nicolas Cabazos. That said labor, with all its entries, outlets, uses, customs, rights, and services thereunto belonging, free from obligation ("gravamen"), she sells to the aforesaid Don Juan Galan for the price and sum of one hundred and twenty-five dollars in current money, for which sum he holds the same, she hereby makes delivery, with the renunciation of the laws of restitution, exception of "non numerata pecunia," of fraud, and of all other laws; and, in form, acknowledges receipt in his favor, by virtue of which she disposes herself, desists, abandons and withdraws from the right of property, possession, use, and dominion; ceding all actions, real and personal profits, distributions, or dividends ("mistas"), either direct or in expectancy, she may have in and unto said labor; renouncing and transferring them in favor of the purchaser, that he may in his own right, if there be cause, and in order as his property, that he possess, sell, and alienate, at his own free will, by virtue of this instrument, which is executed as proof of real delivery, and by which appears the acquirement of possession and holding of the same, without the necessity of any other proof, of which she relieves him; and hereby binds herself to the security and guarantee of this sale in all form, in right, by her property, real and personal, rents, &c., present and future, with authority in and submission to the judiciary and tribunals of the Mexican Republic, in order that its completion be enforced with the rigor of a sentence, passed by authority of a judgment ("casa jugada,") or as may in any other manner be required; declaring that the value and just price of said labor is that of one hundred and twenty-five dollars which she has received, and that she has not been offered any more by any other person; and if it be worth more or have more value, she can of the excess, be it much or little, donate to the purchaser, entirely, perfectly, purely, and irrevocably, and the right called "intervivos," with all the insinuations, stipulations, requirements, and securities that for its validity may be necessary, with the express renunciation of the law First, title eleventh, book fifth of the Recopilation, which treats of things acquired by purchase, sale, or exchange, and of the laws of contracts, in which there be ground for damages in more or less of the just price; and the quadrennial, which limits the right to demand the annulling of the same, or a suppletory for the past value, which she yields as expired, as if it really were so. These she asserts and hereby conveys ("ortogo,") not signing it, declaring that she did not know how; it was therefore done by one of the witnesses, at her

request, who were Don Nabor Lopez de Oropeza, Don Francisco Ramirez, and Don Leonardo Espinosa, before me.

JOAQUIN ARGUELLES,
Notary Public.

All residents, and present by request, and as witness.

LEO'RDO ESPINOSA.

Notarial Certificate.

Taken from its record on the same date of its transfer to to deliver to the purchaser, written on a sheet of common paper, there not being any of the corresponding stamp in this city. In faith of which, and being present at its delivery, I sign and seal it. I give faith.

JOAQUIN ARGUELLES,
Notary Public.

Fees for the original and copy, \$6.00.

Translation.

1849.

Copies of communication and resolutions respecting the "Exidos" of this city, Matamoras.

Seal Fourth.

[L. S.]

One Real.

On my arrival at this capital I presented myself to the Deputy Commissioner for that District, Manuel Prieto, delivering to him the document which I conveyed thither; and whereas, neither said documents nor the credential of nomination with which the corporation honored me, nor the consequent instruction contained the purpose of my arrival, I was embarrassed, and without recourse for taking any steps whatever regarding my commission. Consequently I applied to the said Deputy Commissioner, entreating his protection; and he convinced me that he was not in a situation to assist me without disavowing the secrecy which said corporation had observed in recommending any measure for the benefit of that honorable though afflicted community; that although he had received a particular letter from the Commissioner, Andres Saldaña, in which he recommends the direction of the commission regarding the "Exidos," and also that he sends the despatch sincerely for that effect, he has taken it as an insult; this recommendation not being conformable to the manner in which the insinuated Commissioner, Andres Saldaña, has managed, dissembling with that community, propagating distrust, and persuading him (said deputy) that it is an opposition to his official employ, disavowing the merit which he has obtained by his notorious services; and further, having been sent by your honor, the said despatch, well enclosed with a certificate signed by the 1st Alcalde of that town, and addressed to his Excellency the Governor, an order; and therefore being unable to acquire the necessary information, from th_e

manner in which the business had come, it was necessary to wait the receipt of the proper authority.

Such a disagreeable event, the evils of which are prejudicial to the town, calls my attention, inasmuch as having the honor to be a member of the respectable assembly, and as Syndic Attorney, to be the organ of the reclamations of that vicinity; in that capacity I have the honor to make this known to your Excellency, so that by penetrating the events, which simultaneously concur in the matter, that corporation be persuaded that these are stupefying the majestic progress of this business, tending to dissatisfy those who can render their services to the public.

This conduct has not escaped my hearing, and it is with much pain that I am forced to present this to that respectable body, not only as Syndic Attorney, but also as a citizen.

Therefore, being satisfied that the just resentments of the Deputy Commissioner not only relax, but indispose his good will, and that he will appropriate to the vicinity the portion which its owner can and ought to contribute, even in the actual matter of "Exidos," and also cause other obstructions. And I shall not detain myself here in order to manifest to your Excellencies the whole of the character which I have discovered, and to which I attribute the failure of my commission up to this date.

I should be deficient in the sacred duties of my obligation if the respects and consideration of that which the President Commissioner, Andres de Saldana, is personally interested in, should impose upon me silence in this my answer; this would be criminal, suppressing the just reclamations of the town which demands my services.

I offer an important subject for discussion; surely the mind, influence, and persuasion of the President Commissioner are upon the capacities of each one of the majority of the members who compose the corporation. And I fear to this reclaim he will give the character to which he wishes to reduce it, when he is firm in his opinion, that, with such profit, it is not difficult to cause resignation and incline the intention of the members of the Illustrious Ayuntamiento to the end which he proposes; but in order that the Illustrious Ayuntamiento may act with liberty, I believe that from necessity the President Commissioner will absent himself from the session which is to regulate this business, on account of his personal interest therein.

[Fourth Seal.]

[L. S.]

One Real.]

Finding myself without the credential of my nomination, without the necessary instructions and the particular recommendation of the Commissioner, Andres Saldana, being frustrated, I had no more to do than to wait the result of the despatch which I sent to the Governor. Twenty-four days have elapsed, and not having the result, I have thought proper to send an express, with the object that the documents which I have spoken of as being wanted may be sent to me. I have done nothing but create expenses, without being in the exercise of my commission, which would be excused if I had been protected by said documents; consequently, I hope that it may please your Excellency

to take this into consideration, and decree to reimburse me, therefore relying upon your justice without making a formal demand for the expenses I have contracted in the course of my commission, as I have declared rather to bestow them for the benefit of the community.

I fear that the whole neighborhood will be dissatisfied at not receiving the benefit of the "Exidos," as decreed by the Legislature, and they will attribute this fault to my dilatoriness; therefore I pray that respectable corporation condescend to decree to publish this official letter, as well for my exoneration as its satisfaction. I hope that your Excellencies may be pleased to communicate to me the result of this my reclamation, annexing a copy of the action taken on it, and also that this official letter be preserved in the archives of the Illustrious Ayuntamiento, as a corresponding voucher, since for that purpose I shall preserve a copy of the same.

FOURTH SEAL.
[L. S.]
ONE REAL.

God and Liberty. City of Victoria, April 8th, 1827, 1st of the Installation of the Honorable Congress of this State.

JOSE ANTONIO M'A DE LAS CASAS.

Most Illustrious Ayuntamiento.

Official to the Procurador.

The Corporation has been informed with all due caution, in session of the 17th instant, of your official of the 8th instant; and, according to the literal text of the same, it conceives that improper personalities have made you lose by being misled from the proper course of your commission, perhaps causing general prejudice from this meritorious community, which momentarily expected the success obtained through the medium of their Syndic Attorney; with this idea, and that all of the documents analogous to this business were in the possession of his Excellency the Governor, whereas they were among the papers taken by yourself to his Excellency (and not to the Deputy Commissioner.) Have a care to comply with a law which is already sanctioned, and for which a corresponding order has been given for its execution, and which only wants the superior approval in the despatch concerning the same, and with his Excellency, directly, you must understand this matter; in virtue of which, and for your official, the Corporation resolved in said session to exonerate you from the commission conferred under date of the 8th March last.

As soon as you may be in receipt of this, you will return to the performance of your duty, corresponding to your employ in this Illustrious Ayuntamiento; leaving in the possession of his Excellency the Governor the documents taken by you, in order that his Excellency may dispose of each and all of them as and at such time as he may deem proper. To this effect, the Corporation officially orders at this date. God, &c. Session Chamber of Matamoras, April 21, 1827. Fourth of the Installation, &c.

ANDRES DE SALDANA, President. MANUEL DE LA GARZA, JOSE ANTO. CHAPA, MATIAS RAMIRES, J. CALISTRO PORTILLA. RAFAEL SOLOS, Senators.
MANUEL GALAN, Sec'y.

Official to the Gov't.

This Corporation, in consequence of the copy No. 1 inclosed to your Excellency for your respectful cognizance, could do no less than to resolve that the Syndic Attorney of this town, commissioner Ant'o Ma. de las Casas, commissioned to place before and solicit your Excellency's superior approbation of Exidos, for the worthy citizens who inhabit this town, should be exonerated from said commission for the original and powerful motives as set forth in said document, from which the worthy representative of your Excellency will gather instruction.

This same has given opportunity for the resolution taken by this Ayuntamiento in session of the 17th inst., from which act is enclosed to your Excellency certified copy under No. 2, in which appears the exclusion of the Commissioner Attorney from the commission conferred on him. To that effect, and under this date, pass to the said Com'er Attorney the copied official which is with No. 3 enclosed to your Excellency, entreating (your Excell'y) at the same time that said commissioned returns to this submissive Ayuntamiento, he has

FOURTH SEAL.

[LS.]

ONE REA.

the honor to be under the superior orders of your Excellency; so that he shall reiterate his petition that the said commissioned may leave, from this date, in the presence of your justified authority, the documents which

the Ayuntamiento transmitted under date of 8th March last, with those which he could render effective his representative directly with that superior tribunal, to whom legitimately belongs his obligation. The just resentment of the whole assembly on this occasion could not be disguised from the sagacity of your Excellency, inasmuch as when it expected to see attained the fruit of its labors, it found that geniuses of egotism outweigh the general good of this town; and so many prevailing (of which there may be some incautious ones who may be overthrown,) as to delay more and more the attainment of the desired object, according to positive data in possession of this Corporation, which for the present are reserved; but the proper justification of your Excellency, as a father of all the towns which compose the Free State, who governs with dignity, will be that powerful equity with

FOURTH SEAL.

[LS.]

ONE REAL.

which she is adorned; try to obtain the "Exidos" which this town prays to be confirmed by the executive power and benign heart of your Excellency, which is so well known; it is an inducement (moreover with your

profound knowledge) for you to fill and occupy the chair which you possess. For this generous action, this Corporation will be forever obliged; perpetuating the memory of your Excellency throughout your posterity, so that they may bless the munificent hand of him who, at the expense of so many difficulties, knew how to work his happiness. God, &c. Chamber of Sessions of the Illustrious Ayuntamiento of Matamoras, April 21, 1827. Fourth of the Installation of, &c. ANDRES SALDANA.

MANUEL GALAN,
Secretary.

To his Excellency, C. Lucas Fernandez, Gov'r of this State.

A true copy of the original, which is deposited in the archives of the Illustrious Ayuntamiento of this city, which is under my charge and responsibility, and which I have issued by the order of the said Corporation of the 10th of Nov. ult'o, and at the request of the interested parties, and which is written (four sealed leaves) five useful sheets of the fourth seal, and of the current biennial years. In witness whereof I hereby sign my name in this City of Matamoras, on the 22d day of December, one thousand eight hundred and forty-nine. Attest.

"Four sealed sheets" in a parenthesis, is an error.

JUAN PRADO,
Secretary pro tem.

Translation.

1849.

Copy of the suit instituted in the year 1826, by Francesca Cabazos, regarding the lands on the opposite side of the river.

Matamoras.

Seal Fourth.

L. S.

One Real.

Two Reals—Seal Third—qualified by the Mexican Nation for the biennial years of one thousand eight hundred and twenty-six—GARCIA.

To the President: I, Maria Francisca Cavazos, of this vicinity, present myself and declare, that being informed by your Honor of the superior order to give exidos to this town, and comprehending the same, I confirm my property and say, that I conform to the provisions of said order, but I ask and pray your Honor to grant me the favor to set apart from me the labor from which I get my support, as I have repeatedly made known to your Honor; also the small ranchito situated adjoining the same fence, since there is my own labor, as my property, I have directed (onceido) for many years at my own cost, as may be apparent. Francisco Farias, of Reynosa, and Clemente, have felled and removed timber, and used the land which I have cultivated in previous years for hereditary cattle near my said ranchito, which inevitably will result in damage to me, without awaiting the verification of the said order; and in the meantime either the payment may be verified or restitution made of the land to be taken for the "Exidos." I must rely upon my property, and avoid the damage to me which they originate. All of which I have made known with the anticipation to your Honor, and you have not taken the means to prevent the injury; therefore I find myself obliged to have recourse to this petition in justice, as verbal communication has availed me nothing; and whereas, when by right of primitive communication it was not assented to, I ask that this small piece of land may be left me, deducting its value, on the verification of the payment for the property taken from me, for the "Exidos," or give me instead other land subject to the same deduction as that which I ask for; and I add, if what I have stated

does not effect, for want of justice, the favor I ask, I will replace the small tract with an equal quantity from the land I have left, and this is as much as I can say for my petition. That which I entreat of you is, that you may authorize these men to be expelled from my premises. I am daily insulted by them, seeing that they have turned their beasts on my labor, without respect or consideration for me; they have even done so in my presence, and I hope from your honor's goodness that you will come to a just decision, returning me this original for my own convenience, and withdrawing these others to a proper distance; so that neither they nor I will receive any damage from each other. On that ground I pray your honor may act accordingly, which is justice; give it, and I shall receive freedom, protesting the necessary costs, &c. God and liberty. Town of Matamoras, March 26, 1826. MARIA FRANCISCO CABAZOS, her mark. Two reals—third seal—qualified by the Mexican nation for the biennial years of one thousand eight hundred and twenty-six—GARCIA.

Seal fourth.

L. S.

One real.

To the court of magistrates: Maria Francisca Cavazos, resident of this vicinity, with the greatest submission and humiliation makes known to your honors the preceding petition, presented to the chief magistrate of this place: and you will see how little attention he has paid me, without showing me any cause, since, if there was any, he should have made it known in the decree, according to justice, whereas he has paid no attention whatever to me. I think the reason for this is, that he did not wish to decree against those who are injuring me because they were his friends—even his cousins: and I am even denied the pass, according to the certificate, which accompanies this, besides the refusal of justice in undeceiving me as to whether I had it or no; in the meantime I am continually insulted by those who are in my labor. On this ground, I have taken the liberty to address your honors, so that should I ask justice you may order it to be given me, or at least to undeceive me in the matter. Therefore I pray your honors to concede to me the justice I ask. I swear my intentions are good, protesting all necessary costs. Town of Matamoras, April 11, A. D. one thousand eight hundred and twenty-six. City of Victoria.

her
MARIA FRANCISCA × CAVAZOS.
mark.

City of Victoria, April the eighteenth, A. D. one thousand eight hundred and twenty-six. The alcalde of this town of Matamoras will inform the government upon the reduction, which this party prays for, in the value of the land which she possesses, and has to pay for the same: upon the mode of restoration which she is able to make, and the exchange which she offers in other land, so that in consideration of the public good which each proposition offers, it may be adjusted accordingly. You will also present the objections there may be to confirming the possession which she have, as a citi

zen: in the meantime resolve upon the most convenient mode, prohibiting any damage being done to the property which she has in possession, and administer justice with that impartiality and respect which every citizen deserves.

FERNANDEZ.

JOSÉ RAFAEL BENAVIDES,
Secretary.

One quartilla. Seal fourth. Qualified by the State of Tamaulipas for the year one thousand eight hundred and twenty-six.

RODRIGUEZ.

In the town of Matamoras, on the eighth day of April, one thousand eight hundred and twenty-six, in compliance with the decree of his excellency the governor of this State, to administer due justice to Francisca Cabazos, I, the first alcalde of said town, ordered that one regidor on my part, and one disinterested citizen on the part of these two persons of whom Madame Francisca complains, and another for her part, proceed to the pasture claimed by this lady, and ascertain how much the ground she has fenced in is capable of producing; also if she has her labor well fenced; also to inquire respecting the damage she receives, and by whom caused: furthermore, to see what land they have taken from the said Francisca from that which she had cleared. The aforesaid "regidor" having returned, together with the two citizens who had accompanied him, unanimously reported as follows: That they had an ocular review of the whole of the tract of land; and they found that in the part which Francisca Cavazos has fenced in, it is capable of being planted with fourteen "almudos" of corn; that the fence is very bad, and most of it is made from the same reeds and brushwood which the land produced, and even standing as it grew, serving the purpose of a fence, on account of which brush and grass there are many openings. That the injuries she receives are from the animals belonging to various owners going to the water through these breaches in the fence, and passing through the labor, which is not even planted. That those of whom she complains have a small tract capable of being planted with three "almudos" of corn, and which is well fenced. It is manifest that that land has been recently cleared, from the appearance of the new sprouts. In consequence of the report of these witnesses sent by me, I notified Francisca Farias and Clemente Farias (the persons complained of by Madame Francisca) to desist from injuring her in any way whatever; and also as soon as they gathered their crop, to leave the place, paying her the rent for the same for the time they had employed it: also informing them that when the superior government apportions land to individuals, *that when the superior government apportions lands to individuals*, that they could take their proportionate share. In virtue of

[Seal Fourth.]

[L. s.]

One Real.]

which I make known to your Excell'y my opinion, that Francisca Cavazos cannot substantiate the claim of the property in the "Exi-

dos," on account of her being indemnified for the same, she can only have as is granted to others, a sufficiency for planting three or four almudos of corn. To acknowledge her claim would be to prejudice many industrious families: and as she is by herself, without family, a tract capable of being planted with 4 almudos of corn is a sufficiency for her. It is true that these people can only plant on the margin of the river; and if, through the goodness of the august assembly and the kind disposition of the superior government, in conceding the benefit of the "Exidos" they strive to profit by that which, for so long a time, they have been deprived of; and whereas it is well known to the said town that said Francisca has subsisted for several years upon the work of six or more poor people to whom she has given half an almudo of corn for planting, receiving in return from their crops three almudos, in such case, and what I positively know—she ought to have no more than her pro rata share in the exidos in common with others. Yes, your Excellency, Francisca Cavazos, according to the proof before this Court, gave possession to those she complains against: And after the pasture, which she claims as her own, was cleared, she tried to eject them from the premises, saying, and trying to satisfy herself that it was the fact, that they had damaged her lands: And after committing many blunders in Court the said Francisca stated that she would not abide my decision, but that she would take an appeal, leaving the Court, *leaving the Court* without waiting to hear any explanation or even approving the summons granted her, and at the same time using very improper language. This gentleman corroborates what is said of this same Cabazos: that she is liable to have delirious turns, and that when she is in these fits she forgets her contracts, and occupies the time of the Courts with complaints, of which she herself is the prime cause. Judgment has been rendered, according to order, to the aforesaid Cabazos, and she is informed that it corresponds with the superior decree, and also that I await the resolution of your excellency for my government in the matter.

In witness whereof I affix my signature in connection with those of my office.

Attest:

JUAN JOSE GALVEZ.

Assistencia.

JOSÉ MARIA VILLAREAL.

Assistencia.

MANUEL GALAN.

Two Reals. Seal third. Qualified for the State of Tamaulipas, for the year one thousand eight hundred and twenty-six.

RODRIGUEZ.

[Seal Fourth.

[L. s.]

One Real.]

The citizen Juan José Garcia Cabazos, ensign of the 2d company of regular militia in actual service, having gone to the magistrate on proper business of my own, and while I was present Francisca Cavazos entered with an instrument of writing for a permit to go to the government; the alcalde answered that he could not give it to her, as he had not received the judgment of reconciliation: Whereupon the said lady replied, saying: that it was not her fault, when

she made the verbal presentment to the two alcaldes, if they decided that the two Farias should remain where they were: This is what took place before me: the others said not a word. The said lady then said in a very high tone of voice that she requested me to be a witness, from which request I could not excuse myself: therefore I give this certificate for whatever it may be worth.

Given in the town of Matamoras on the tenth day of April, one thousand eight hundred and twenty-six.

JUAN JOSE GARCIA CABAZOS.

Two Reals. Seal Third. Qualified by the State of Tamaulipas, for the year one thousand eight hundred and twenty-six.

RODRIGUEZ.

[Seal Fourth.

[L. s.]

One Real.]

To the Governor of the State: Francisca Cabazos, resident of Matamoras, and lawful widow a second time, in due form and according to my interest, before your honor with all due respect present myself and say: that the decree of the 18th of April last, which your honor saw fit to provide in my favor, so that the Messrs. Farias, as I have stated in my previous petition to your honor, should not take from me my labor which I have redeemed with my own money—as well also the land, which I have had many years under fence, and which is for the purpose of “Exidos” I have with me present, in order to be reimbursed in other land: but, sir, cannot I, a female resident, enjoy within the “Exido” my labor which I have ditched (evicada) as also my “ranchito,” the labor of which is capable of being planted with one “fanega” and seven “almudos” of corn—can I not have my ranchito at the cost of my own money, having no other means but my labor whereby to obtain my support? And is it not possible that this said “Alcalde” wishes to eject me, and take my property in order to confer a favor on his cousins Francisco and Clemente Farias? I am satisfied, although the alcalde has otherwise informed your excellency, that it is only to impair my reason, just rights, and property, by giving a preference to his cousins, as I have before stated in the commencement. The steps which your honor saw fit to take in my favor, I duly made known to the alcalde; which resulted in his appointing two men, suitable for his arbitration, who crossed the river and went to examine the labor: one of them was a regidor of the same party, who, having returned, and being present before the alcalde, said to me: What do you ask? or, What do you want? I answered that “what I wanted was, that the two ‘Farias’ should leave;” the alcalde said that they had corn planted; upon which I replied, that it was with the use of my property; whereupon the alcalde, with the other good men undertook to appraise the value of the corn, and the good men said that they had 3 almudos of corn planted, whereas there was more than that, for they have a large piece of ground. Then said the alcalde to the good men, If you do not decide in the matter, I will; and, pretending that the good men were there by my order, he asked Francisco Farias what agreement he had made with me;

he answered, that he had agreed to plant 3 almudes of corn for me for the use of all the labor. I then told him to present the proof; that I only proposed that to him, but that we did not agree upon so doing; to this the alcalde said that we should act according to the agreement of the two good men. And as I saw that the said men were opposed to giving me justice, I told the alcalde I would not abide by his decision, but would appeal from the same, and so, sir governor, I will appeal for one, two, three times, or as many as the

[Seal Fourth.

[L. s.]

One Real.]

law will allow me, and my motives are the same as I have already stated in this, as well as my former petition, and on account of the Farias's being his cousins, and because they have destroyed my labor, fenced as my own property, and my "ranchito." At first, in the verbal complaint which I made to the alcalde, I asked him to prevent these persons from working on my property; whereupon he sent them to injure my labor and plant it themselves; and Clement Farias made use of certain timber which I had on my labor; this same they have done on most of the land belonging to the "Exidos" portion of my property, and planted corn there, to all of which the alcalde has made no opposition, nor has prevented the said Farias's from doing damage to me, nor ordered them to leave or settle with me for the harm they have done, all of which gives people an opportunity to think, that all these proceedings are by my order. Surely, to no other owner of a labor has the alcalde permitted such injury; why, it is nothing but public talk, and notoriously so, that to me alone have such things been permitted, although my property has been protected by the fence for many years previous. I say that the balance of my land should be subject to a deduction, on the payment of that I am to receive, or in case I have to replace the same with other land, so that I shall suffer no damage or loss on my labor, or ranchito: And, although I asked from the alcalde the decree of your honor, together with the dispatch; he told me that they (the papers) were already forwarded to the government. In consideration of which, with all due respect, I present to your honor the annexed certificate of the Ensign ("alferez") Juan José Garcia Cabazos, so that it may have the effect which it deserves from your honor, and therefore to be that of justice, she prevailing. I ask and beg of your honor to render judgment in my favor, with the express relief from costs. I swear in due form, &c.

Matamoras 2d, one thousand eight hundred and twenty-six.

MARIA FRANCISCA CABAZOS.

City of Victoria, May 11th, one thousand eight hundred and twenty-six.

In accordance with the information received from the Alcalde of Matamoras, and also the new petition of Francisca Cabazos, the original of which is contained in three sealed sheets of paper, and in order to render the rights of this last mentioned compatible with the public good: The Ayuntamiento of the said town, will direct that the said Cabazos shall remain in possession of so much of the labor which

she claims, as shall be considered practicable at the time the assignment of Exidos of that town is made: it should be remembered, to assign to the said Cabazos the use of the lands which corresponds to her as a resident, taking into consideration the public services which entitle her to more respect than to the other residents.

FERNANDEZ.

In the absence of the Secretary,

JOSÉ APOLINAS GARCIA,
1st Deputy.

Court of Matamoras, June twenty-first, one thousand eight hundred and twenty-six. In order to carry the above supreme decree into effect, I, as president, informed the Illustrious Ayuntamiento, accordingly, at a private meeting separate from the session.

In consequence of this, it was with regret that we should notify Francisca Cabazos of the said decree, and that she was obliged to conform to the provisos therein contained. I summoned said Francisca to appear before me, and commanded the Secretary to read to her the said decree, which he did. This lady, doubting the whole of its contents, requested Felipe Roque de la Portilla to read it to her; when she heard it read by him she spoke like a crazy person, and not being able to pacify her, she left the Court. I, the present Judge, being known to the want of attention characteristic of Francisca Cabazos, decided to order Francisco Farias, without disturbing that which was planted on the labor of Madame Cabazos, to continue fencing and planting that which was commenced in the labor in litigation, all of which was in compliance with the wishes of the government of the State, according to the said decree, and in obedience to the order of the said Sir Governor, that no person should be hindered from making labors and marking the same with ditches, on the lands comprising the Exidos, by paying the owners of the same the rent thereof.

I, the citizen Jose Maria Villareal, first Alcalde of the town, have so decided, and make known that by authority. I sign my name in connection with those of my office with whom I act, for the want of there being a Notary. Accordingly I attest.

MATIAS RAMIREZ.

JOSE MARIA VILLAREAL,
Asistencia.

MANUEL GALAN, do.

A true copy of the original which is deposited in the archives of the illustrious Ayuntamiento of this city, which is under my charge and responsibility, and which I issued by the order of the said corporation, dated Nov. 10, ult'o, and at the request of the interested parties, and which is written upon eleven sheets of sealed paper, of the fourth seal, of the current biennial years. In witness whereof, I affix my signature, in this City of Matamoras, the twenty-second day of December, one thousand eight hundred and forty-nine.

JUAN PRADO,
Sect'y, pro tem.

Document C.

Juzgado 2o Constitucional de la villa y Puerto de Matamoras.

Para cumplir con la superior disposicion del E. S. Gobernad'r del Estado fecha 22 de Mayo ultimo, cito á v. como propietario de terrenos de entre los Egidos á fin de proceder a la medida y demarcacion de estoy el Lunez proximo entrante, esperando se presente tan *tan* pronto como le sea pocible.

Protesto a v. mi apprecio concideracion particular. Dios y Libertad. Matamoras, Julio 15 de 1835.

JUAN JOSE DE LA GARZA.

S'OR D. RAFAEL CABAZOS. [Endorsed] AL CIUD'o RAFAEL CABAZOS.
Del Alc'e 2o. No. 14.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

I, James Love, Clerk of the United States District Court for the District of Texas, certify that the foregoing page contains a true and perfect copy of Document "C" in red ink originally in this Court, in the case in Chancery No. 41, Rafael Garcia Cabazos *et als.* vs. Charles Stillman *et als.*, which original is withdrawn by leave of Court, and this copy filed in its stead.

In testimony whereof, I hereunto set my hand and affix the seal of said Court at Galveston, this 25th day of August, in the year of our Lord, one thousand eight hundred and fifty.

[SEAL.]

JAMES LOVE,
Clerk.

Translation.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS and others }
vs. }
CHARLES STILLMAN and others. }

*Translation of the Document marked C.**On the back.*

To citizen Rafael Cabazos, from the 2nd Alcalde.

Second Constitutional Court of the Town and Port of Matamoras.

To fulfil the supreme order of his Excellency the Governor of the State, dated 22d of May last, I cite you as owner of lands within the Egidos, in order to proceed to the survey and demarcation of them on Monday next, hoping that you will be present as early as possible.

I assure you of my esteem and particular consideration. God and Liberty. Matamoras, July 15th, 1835.

JUAN JOSE DE LA GARZA.

S'OR D. RAFAEL CAVAZOS.

I certify that the foregoing is a correct translation of the original made under the order of the Court.

WILLIAM G. HALE.

Be it remembered, that afterwards, to wit, on the fifteenth day of January, in the year of our Lord one thousand eight hundred and fifty-two, the court here rendered a decree in this cause which is in the words and figures following, that is to say :

Decree.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Between RAFAEL GARCIA CAVAZOS, MARIA JOSEFA CAVAZOS his wife,
and ESTAFANA GOZEASCOCHEA DE CORTINA, complainants,
and

CHARLES STILLMAN, SAMUEL A. BELDEN, JACOB MUSSINA, PATRICK C. SHANNON, RICHARD FITZPATRICK, W. W. CHAPMAN, and MARIA ANGELA [or DE LOS ANGELES] GARCIA SAFEN DE TARNEVA, RAMON SAFEN, FELICIANA DE TIGERINA and JOSEF MANUEL PRIETO, defendants.

This cause came on to be heard at a preceding term of this court, and was submitted to the court by counsel, upon briefs; and the court not being then fully advised, took time to consider until the present term, when, upon consideration thereof, it was ordered, adjudged, and decreed as follows: That the bill be dismissed as to the defendants Richard Fitzpatrick and W. W. Chapman, without prejudice to the complainants in case they institute any other proceedings against such defendants, and also without prejudice to them in the present cause as respects the other defendants herein; and that the complainants pay all the costs incurred by the said Fitzpatrick and Chapman in their defence herein, that the title of the complainants as tenants in common with the said Maria Angela Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina and Josef Manuel Prieto, who have been made defendants, in and to the tract of land described in the bill, and in the Testimonio or copy of the title or grant, issued by the proper authorities of the viceroyalty of New Spain to José Salvador de la Garza and now on file in this cause, that is to say, a tract of land known as the Potrero or Agostadero del Esperitu Santo, now situate in the County of Cameron and State of Texas, and bounded and enclosed as follows: on one side by the Rio Grande, on another by the Laguna del Madre, or Laguna Madre and the Gulf of Mexico, on another by the Arroyo Colorado or Sal Colorado, and on the last and western side by a thicket or dense wood extending from the said Rio Grande to the said Arroyo Colorado, at a point considerably above the present town site of Santa Rita, including within the said limits the town sites of Freeport and Brownsville, and the site of Fort Brown—be fully established and confirmed as legal, valid, and subsisting, and that the same is in the judgment of the court, and is

so declared to be a title and estate in Fee Simple in and to the said land, derived from the said original grantee José Salvador de la Garza, and now vested in the said complainants as aforesaid; that the said complainants ought of right to be quieted in their possession of the said land, under the said title, as against the said Charles Stillman, Samuel A. Belden, Jacob Mussina, and Patrick C. Shannon, defendants herein, and protected against the unjust and illegal claims and assertions of title to portions of the said land set up by the said defendants, and from their meddlesome interference with the possession of the complainants; and with the said land, that are claims, grants, or titles, whether derived from the Ayuntamiento of the town or city of Matamoras, or based upon locations and surveys made upon headright certificates, county warrants, or other evidences of title to land issued by the Republic or State of Texas, or originating in any other way, which were, at the time of filing the bill in this cause, held, set up, or asserted by the said defendants or any of them, in and to any portion of the said tract of land, adverse to the title of the said complainants, are in the judgment of this court, and are here declared to be null, void, and of none effect against the title of the complainants as aforesaid; and that all such claims, grants, and titles are hereby annulled and vacated, so far as the said complainants are concerned; that in particular the following grants made by the ayuntamiento of Matamoras of portions of the said lands alleged to be within what was called the Exidos of the said Town, at the times, and to the persons hereinafter mentioned, which were, at the time of filing the said bill, held, set up, and asserted as valid and subsisting titles by the said defendants, or some one or more of them, that is to say: one portion or parcel of the said land, called a *labor*, granted to Manuel Vela on the 25th day of May, A. D. 1839; one granted to Agapeta Vela on the day of ; one held by Santos Iberio prior to November, A. D. 1834; one granted to Juan Treanor on the day of ; one granted to Manuel Treviño, otherwise called Manuel Treviño Canales, on the 6th day of June, A. D. 1840; one known as the property of Caterina Vela, and surrendered by the said Caterina to Walter Henry as Syndic of her creditors; one granted to Onofre Rebalcaba on the day of ; one granted to Manuel Vela on the nineteenth day of February, A. D. 1842; one granted to Manuel Vela on the day of ; one granted to Ignacio Flores on the sixth day of June, A. D. 1840; one granted to Francisco Fregosa on the day of ; one granted to José Nazario Garza on the twelfth day of April, A. D. 1834; one granted to Maximo Sierra on the nineteenth day of April, A. D. 1834; one granted to Antonio Salinas on the nineteenth day of July, A. D. 1842; one granted to Vicente Valerio on the twentieth day of January, A. D. 1844; one granted to Miguel Salinas on the day of ; and one granted to Leandro Martinez on the eighteenth day of July, A. D. 1846, held, set up, and asserted by the defendants Charles Stillman, Samuel A. Belden, and Jacob Mussina, or some one or more of them; and also one *Labor* granted, as aforesaid, to Nicolas Cabazos, otherwise called Nicolas José Cabazos, on the day of ; held, set up, and asserted by the said defendant Patrick C. Shannon, be declared to be void, null, and of none effect, and be hereby annulled

and vacated as against the said title of the said complainants; that the following locations made upon portions of the said tract of land, under headright certificates, or other warrants for land issued by the Republic or State of Texas, and held, set up, and asserted as valid in law by the said defendants, or some one or more of them, at the time of filing the bill, that is to say: a location made on the eighth day of January, A. D. 1847, for David Snively, under a headright certificate issued to Henry Hudson, for twenty-six labors of land, and a location made on the same day, for the same party, on a warrant for six hundred and forty acres of land; a location made on the seventeenth day of August, A. D. 1847, for the same party, on a headright certificate for one league and one labor of land issued to substituting the said certificate for that granted to Henry Hudson as aforesaid; a location made on the 20th day of March, A. D. 1847, for the same party, under a land warrant granted to James St. John, for three hundred and twenty acres of land; a location made on the same day and for the same party, under another land warrant issued to the said James St. John, for three hundred and twenty acres of land; a location made on the same day and for the same party, to begin at the lower corner of the last location, and under a headright certificate granted to ; a location made on the same day and for the same party, under a headright certificate for three hundred and twenty acres of land issued to James Fox; a location made on the 25th day of April, A. D. 1848, for the said Snively, under a headright certificate issued to J. W. B. McFarlane for one league of land; a location of three hundred and twenty acres of land adjoining the preceding location; a location made for the same party on the donation warrant No. 1140, granted to for three hundred and twenty acres; a location made for the same party, under a land warrant for nine hundred and sixty acres of land, issued to J. W. B. McFarlane; a location made for the same party, under a headright certificate granted to J. Curling for six hundred, and forty acres of land; locations made for Charles Stillman, one of the defendants, on the seventh day of November, A. D. 1848, under headright certificate No. 36, for twelve hundred and eighty acres of land, issued to Estevan Villareal, and No. 18, for six hundred and forty acres of land, issued to Sabas Medrano, and under balance of land warrant No. $\frac{533}{632}$, issued to David Snively for nine hundred and sixty acres of land; the location or locations made for the said Stillman on the fifteenth day of August, A. D. 1848, under the following headright certificates, to wit: one for three hundred and twenty acres of land issued to John Chubb in Galveston County; one for six hundred and forty acres of land issued to Francisco Guzman in Bexar County; one for six hundred and forty acres of land issued to Michael Judd in Galveston County; one for six hundred and forty acres of land issued to Juan Rodriguez Montemayor in Bexar County; one for six hundred and forty acres of land issued to Francisco Bartolomis in Galveston County; one for three hundred and twenty acres of land, No. 295, fourth class, issued Antonio Garza in Bexar County; one for one-third of a league of land issued to John B. Fox in Harris County; one for six hundred and forty acres

of land issued to Henry H. Wheeler in Montgomery County; one No. 15, fourth class, issued to Henry H. Wheeler in Grimes County; a location made for Patrick C. Shannon on the 25th day of April, A. D. 1848, under a headright certificate issued to Tiodonio Samora for three hundred and twenty acres, being No. 34 in Nueces County; a location made for the said Shannon, under a headright certificate issued to Cunningham in Galveston County for three hundred and twenty acres of land; two locations made for the said Shannon on a headright certificate issued to Felix C. Catonnet for one-third of a league of land, being No. 224, in Brazoria County, be each and all declared to be null, void, and of none effect, and be hereby vacated and annulled as against the title of the said complainants as aforesaid: that also, the following surveys, made under and by color of locations based upon the certificates and warrants for land before stated, and held, set up, and asserted, as aforesaid, by some of the said defendants, together with any patents from the State of Texas thereon obtained, that is to say: a survey made for Charles Stillman on the 6th day of November, A. D. 1848, under the headright certificate No. 111, issued to J. W. B. McFarlane by the Board of Land Commissioners for Victoria County; a survey made for the same party on the eighth day of November, A. D. 1848, under the headright certificate No. 39, issued to by the Board of Land Commissioners for Nueces county; a survey made for the same party on the first day of December, A. D. 1848, under the Land Warrant No. issued by the Commissioner of the General Land Office on the 6th day of April, A. D. 1847; a survey made for the same party on the twenty-second day of November, A. D. 1848, under the headright certificate No. 18, issued to Sabas Medrano by the Board of Land Commissioners for Nueces County, also the surveys made for Patrick C. Shannon under the headright certificates issued to Samora, Cunningham and Catonnet, before mentioned, and all other surveys made on the aforesaid locations or any others of like nature on the said tract of land, and held and asserted by the said defendants, or any of them, be declared null, void and of none effect, and be hereby declared vacated and annulled as against the said title of the said complainants. That the said defendants Charles Stillman, Samuel A. Belden, Patrick C. Shannon and Jacob Mussina, and each of them, and their, and each of their agents, servants and hirelings, be forever enjoined and restrained from again setting up, claiming or pretending any right or title, in themselves, or others, by virtue of any of the claims, grants or titles hereinbefore generally or specially mentioned and set forth, or others of like nature, in opposition to the title of the complainants, as aforesaid, and from in any way intermeddling with the said tract of land or any portion thereof, without the license of the said complainants; that they be further forever enjoined and restrained from selling, leasing, or otherwise disposing of any portions of the said tract of land, and from receiving any money therefor, and from selling, leasing, or otherwise disposing of any lots in the so-called Town or City of Brownsville, and giving titles therefor, and from receiving any payment in money or in any other way for the same, without the license of the said com-

plainants, and that a writ of injunction in the penalty of twenty thousand dollars, as well as all other proper and usual process, be issued for the purpose of enforcing this decree and for the objects herein stated; but nothing herein contained shall be construed to prejudge or affect the rights of persons not parties in this cause, nor claiming under such parties.

And it is further ordered, adjudged, and decreed that the costs of the parties in this cause be referred to James Love, Esquire, as Master in Chancery, to be taxed; and that the complainants pay all the costs of the defendants, Angela Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto; and that the other defendants, Charles Stillman, Samuel A. Belden, Jacob Mussina and Patrick C. Shannon, pay all the costs properly incurred by the said complainants herein; and that proper process issue to enforce the payment of the same, when determined by the said Master.

The name "Shannon," on the first page, was erased, and the words "held, set up, and asserted by the said defendant, Patrick C. Shannon," were written at the side of the fourth page before signing.

JOHN C. WATROUS.

Jan. 15, 1852.

And afterwards, to wit, on the 12th day of June, in the year of our Lord one thousand eight hundred and fifty-two, the following notice was served on the defendants by the Master in Chancery herein, James Love, that is to say:—

Notice.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS *et als.* }
v. }
CHARLES STILLMAN *et als.* }

TO CHARLES STILLMAN, SAMUEL A. BELDEN, JACOB MUSSINA, PATRICK C. SHANNON, MARIA ANGELA GARCIA SAFEN DE TARNEVA, RAMON SAFEN, FELICIANA DE TIGERINA, and JOSEF MANUEL PRIETO, Defendants; or to W. P. BALLINGER, M. M. POTTER, ROBERT HOWARD, and ROBERT H. HORD, Esquires, Solicitors and Counsel for the above named Defendants.

Gentlemen: Please to take notice that at the request of the counsel for the complainants, who waive notice on their part, and in accordance with the final decree in the above entitled cause, I shall proceed, on Wednesday next, the 16th day of June, 1852, at 10 o'clock A. M., at my office in the Court House of the U. S. District Court, to settle and tax the costs in the said cause, and shall continue in such taxa-

tion on that and the succeeding days, until the same is completed ; at which time and place you will please be present, if you see cause.

JAMES LOVE,
Master in Chancery.

June 12, 1852.

Service acknowledged this 12 of June, 1852.

R. H. HOWARD,
Att'y for Shannon.

A copy of the above served on me June 12, 1852.

W. P. BALLINGER.

A copy of the within served on me June 12, 1852. I am not solicitor or counsel for any of the defendants in the within named cause.

M. M. POTTER.

And afterwards, to wit, on the twenty-fourth day of August of the same year, James Love, Esquire, the Master in Chancery, filed his report herein, which said report is in the words and figures following, that is to say :—

Report of Master.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Between

RAFAEL GARCIA CAVAZOS, MARIA JOSEFA CAVAZOS, his wife, and ESTAFANA GOZEASCOCHEA DE CORTINA, Complainants,

and

CHARLES STILLMAN, SAMUEL A. BELDEN, PATRICK C. SHANNON, JACOB MUSSINA, RICHARD FITZPATRICK, W. W. CHAPMAN, and MARIA ANGELA (OR DE LOS ANGELES) GARCIA SAFEN DE TARNEVA, RAMON SAFEN, FELICIANA DE TIGERINA, and JOSEF MANUEL PRIETO, Defendants.

In pursuance of the decree of Court rendered in the above entitled cause, at the January term thereof, A. D. 1852, referring to me, as Master in Chancery, the taxation of costs in said cause, I, in pursuance of notice given to the counsel of record of the defendants, (which said notice is here referred to as a part of this report, marked A,) attended at the Clerk's Office of the United States District Court, at 10 o'clock, A. M. on the 16th day of June, A. D. 1852. William G. Hale, counsel for the complainants, being present, and no one attending on the part of the defendants.

The counsel for the complainants filed their account, marked (1), for moneys expended by them in taking depositions, amounting to one hundred and sixty-six dollars and twenty-five cents, (166 25,) which was verified and allowed, and is here referred to as a part of this report. I met from time to time, and proceeded in the investi-

gation and duties assigned me. On the 27th day of July, 1852, complainants' counsel filed their document, marked (2), for moneys paid for translations made under the order of Court, amounting to one hundred and thirteen $\frac{37}{100}$ dollars, which was verified and allowed, and is here referred to as a part of this report. The Clerk filed his bill of costs against complainants, for which defendants are liable, amounting to six hundred and ninety-four $\frac{61}{100}$ dollars, which was examined and allowed, and is here referred to, marked (No. 3), as a part of this report. The Clerk filed his bill, marked (4), for costs, for which defendants alone are liable, amounting to four hundred and thirty-three $\frac{93}{100}$ dollars, which was examined and allowed, and is here referred to as a part of this report. The Clerk also filed his bill of costs against the complainants, Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina, for which they are liable to defendants, Angela Garcia Safan de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto, which account was examined and allowed, and is here referred to, marked (5,) amounting to fourteen $\frac{16}{100}$ dollars. The Marshal filed his bill of costs, amounting to \$72 00, marked (6,) which was examined and allowed, and is here referred to as a part of this report.

I therefore report that complainants are entitled to recover of defendants, Charles Stillman, Samuel A. Belden, Jacob Mussina, and Patrick C. Shannon, the sum of one hundred and sixty-six $\frac{25}{100}$ dollars, paid by them for taking depositions.....	\$166 25
And the sum of one hundred and thirteen $\frac{37}{100}$ dollars paid by them for translations.....	113 37
And the sum of six hundred and ninety-four $\frac{61}{100}$ dollars, costs for which they are liable to the Clerk.....	694 61
Together with \$72, Marshal's costs.....	72 00

Amounting in all to the sum of.....	996 23
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For which amount said complainants are entitled to have execution.

That the Clerk is entitled to recover of the said defendants, Stillman, Belden, Mussina, and Shannon, the sum of four hundred and thirty-three $\frac{93}{100}$ dollars, the amount of his costs for which said defendants are liable, for which amount he is entitled to have execution.

That the said complainants, Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina, are liable for the sum of fourteen dollars and sixteen cents for costs due to the defendants, Angela Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto, for which sum of (14 16) said defendants are entitled to have execution.

I further report that the Marshal is entitled, as per bill filed, which is here referred to, marked (6,) to the sum of \$72 00, for which he is entitled to have execution.

I further report that, having taxed the costs, in pursuance of the decree of Court in said above entitled case, I gave notice to counsel for complainants and defendants that on the 24th day of August, 1852, I should proceed to make and file my report, which notice is here referred to, and made a part of this report, which is respectfully submitted.

JAMES LOVE, *Master*.

I further report that I attended three days in taxing the costs in said cause, and am entitled, therefore, to the sum of thirty dollars.

JAMES LOVE, *Clerk*.

August 24, 1852.

A.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.
In Chancery.

RAFAEL GARCIA CAVAZOS *et als.* }
vs. }
CHARLES STILLMAN *et als.* }

TO CHARLES STILLMAN, SAMUEL A. BELDEN, JACOB MUSSINA, PATRICK C. SHANNON, MARIA ANGELA GARCIA SAFEN DE TARNEVA, RAMON SAFEN, FELICIANA DE TIGERINA, and JOSEF MANUEL PRIETO, Defendants; or W. P. BALLINGER, M. M. POTTER, ROBERT HOWARD, and ROBERT H. HORD, Esquires, Solicitors and Counsel for the above named Defendants.

Gentlemen: Please to take notice that at the request of the Counsel for the Complainants, who waive notice on their part, and in accordance with the final decree in the above entitled cause, I shall proceed on Wednesday next, the 16th day of June, 1852, at 10 o'clock A. M., at my office in the Court House of the U. S. District Court, to settle and tax the costs in the said cause, and shall continue in such taxation on that and the succeeding days, until the same is completed, at which time and place you will please be present, if you see cause.
June 12, 1852.

JAMES LOVE,
Master in Chancery.

Service acknowledged this 12th June, 1852.

R. H. HOWARD,
Att'y for Shannon.

A copy of the above served on me June 12th, 1852.

W. P. BALLINGER.

A copy of the within served on me June 12th, 1852. I am not Solicitor and Counsel for any of the defendants in the within named cause.

M. M. POTTER.

(1.)

In Chancery.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

RAFAEL GARCIA CAVAZOS *et als.* }
vs. }
CHARLES STILLMAN *et als.* }

Memorandum of costs paid by the complainants and to be refunded to them:

Paid for taking the deposition of Rodriguez, <i>Matamoras</i>			
"	"	" Dominguez, <i>Camargo</i>	3 00
"	"	" Molano, Valdez, Rodriguez, and Carceres, <i>Victoria</i>	27 50
"	"	" Garza, Falcon, Ramirez, <i>Camargo</i>	9 00
"	"	" Lopez, Hinojosa, Galindo, Longoria y Lerna, Prado, Portilla and Fernandez, Abrigo and Arguelles, <i>Matamoras</i>	28 12 $\frac{1}{2}$
"	"	" Guerra, Guerra Medrano, Villareal, Lira, <i>Matamo- ras</i>	13 12 $\frac{1}{2}$
"	"	" Arguelles, <i>Matamoras</i>	6 12 $\frac{1}{2}$
"	"	" Guérrea, Zamora, Cavazos, Münguilla, Rodriguez, <i>Reynosa</i>	10 87 $\frac{1}{2}$
"	"	" O'Docharty, <i>San Patricio</i>	4 50
"	"	" Richardson, <i>Galveston</i>	4 00
"	"	" Harris & Maps, <i>Boston</i>	31 00
" David Ayres, U. S. Deputy Marshal, on acc't			30 00
			166 25

Received of Rafael Garcia Cavazos, thirty dollars on account of expenses as United States Deputy Marshal from Galveston to Brownsville.

D. AYRES,
Deputy United States Marshal.

June 24, 1849.

UNITED STATES OF AMERICA,
District of Texas, ss.

I, William G. Hale, one of the Solicitors of the Complainants in the cause named on the reverse hereof, make oath and say that I saw D. Juan Treanor, Attorney in fact of the said Compl'ts, pay the several sums charged on the reverse page for depositions taken in Mexico; that I examined the schedule of fees for such services established by law in Mexico, and that the charges as stated are correct; that I paid the sums charged for the other depositions to the proper officers; that as to the amount paid D. Ayres I know nothing of my own knowledge, but believe it to be correctly stated from his own declaration to me, and from his receipt, which I hereto annex.

WILLIAM G. HALE.

Subscribed and sworn to before me, 15th June, 1852.

JAMES LOVE,
Master Ch'y.

(2.)

In Chancery.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

Between

RAFAEL GARCIA CAVAZOS and others }
 and } No. 41.
 CHARLES STILLMAN and others.

The Complainants in the above entitled cause, by their Solicitors, beg leave to present to the Master, upon the reference to him of the taxation of costs in the said cause, the following account of several sums which ought properly to be taxed in their favor against the defendants, and which were accidentally omitted in the former account presented on their part:

1. Paid by the Complainants for the stamp or sealed paper, required by the laws of Tamaulipas and Mexico, used in taking the several depositions on the part of the Complainants in this cause, and for that filed to supply the common paper used in some of such depositions.

Depositions from Victoria,	No. 8	1 75
" " Camargo,	" 9	2 00
" " Matamoras,	" 10	1 50
" " Reynosa,	" 11	2 00
" " Matamoras,	" 12	4 50
" " "	" 13	1 75
" " "	" 14	1 50
" " "	" 15	1 25
" " "	" 16	75
" " "	" 17	1 25
Carried over		18 25
Brought over		18 25
" " Camargo,	No. 2	1 00
		19 25

2. Paid for translations of the several papers in Spanish filed on the part of the complainants in said cause, including the depositions taken under Letters Rogatory, the translations being made under an order of the Court at the rate of 10 cents per hundred words—84,200 words 84 20

3. Paid for translations of the several interrogatories annexed to the Letters Rogatory in Spanish filed on the part of the Complainants in said cause, at the rate of 10 cents per 100 words—9,925 words 9 92

113 37

UNITED STATES OF AMERICA,
District of Texas.

I, William G. Hale, Solicitor of the Complainants in the above entitled cause, make oath, and say that the above account is correct and true so far as regards the expenses incurred by the complainants ;* that the amount for stamped paper has been paid by the complainants, as well as most of the other chargers, and that about thirty dollars of the above amount are still due by the complainants, and may at any time be recovered from them.

WILLIAM G. HALE.

Subscribed and sworn to this 27th day of July, A. D. 1852.

JOHN S. JONES,
U. S. Commissioner.

(3.)

In Chancery.

RAFAEL GARCIA CAVAZOS and others }
vs. } No. 41.
 CHARLES STILLMAN and others.

Bill of Complainants' costs taxed in the above entitled cause against the defendants, Charles Stillman, Samuel A. Belden, Jacob Mussina, and Patrick C. Shannon :

1849.

Jan'y 12.	Filing Bill, 25.	Issuing 2 subpoenas, 2 67,	\$2 92
		Docketing cause, 67. Bond for costs, 1 33,	2 00
Feb'y 5.	Filing motion for injunction, 25.	Entering	
	same, 34, -	- - -	59
" 6.	Issuing alias subpoena, -	- - -	1 33
March 28.	Filing affidavit of Treanor, 25,	- - -	25
June 2.	" amendment to bill, -	- - -	25
" 30.	" affidavit of Treanor, 25,	- - -	7 59 25
July 7.	" " " 9, receipt for		
	papering, 25, -	- - -	50
" 27.	Filing motion, 25 ; entering same, 34,	- - -	59
" "	" " 25 ; " " 34,	- - -	59
Aug. 2.	" affidavit of notice, 25 ; amend't, 25,	- - -	50
" 6.	" 2 replications, -	- - -	50
" 9.	" 13 sets interrogatories, -	- - -	3 25
" 13.	" 8 " " -	- - -	2 00
" 14.	" 6 " " -	- - -	1 50
" 15.	" affidavit of service of notice, -	- - -	25
" 17.	" motion to enlarge time, 25 ; entering		
	same, 34, -	- - -	10 27 59

* Interlined. JAMES LOVE, Clerk.

1850.						
Jan'y	27.	Filing motion to open depositions, 25 ; ent'g same, 34, - - - -				59
Feb'y	4.	Filing replication, 25 ; taking bond for costs, 1 33, - - - -			1	58
"	9.	Filing 7 sets interrogatories, - - - -	3	92	1	75
					Carried over,	21 78
					Bro't over,	21 78
Jan'y	4.	Filing 2 affidavits of Hale, 50 ; administering 2 oaths, 26, - - - -				76
"	12.	Filing 1 set interrogatories, 25, - - - -				25
"	15.	" motion, 25, and entering same, 34, - - - -				59
June	15.	Filing motion to appoint commissioners, 25 ; entering same, 34, - - - -				59
"	17.	Filing motion as to Amendment X, 25 ; entering same, 34 - - - -				59
"	"	Filing administering oath to Hale and certificate, - - - -				33
"	19.	Filing amendment X, . - - - -	3	64		25
July	16.	" acknowledgment of service and copy of Amendment X, - - - -				25
"	25.	Filing 2 sets interrogatories, - - - -				50
Aug.	6.	" 2 agreements, - - - -				50
Oct.	17.	" 6 sets of interrogatories, - - - -			1	50
"	24.	Issuing s'ps. for witnesses, - - - -				33
"	30.	Filing 2 sets interrogatories, - - - -				50
"	31.	" 5 cross " - - - -			1	25
Nov.	8.	" agreement, - - - -	5	08		25
1851.						
Jan.	16.	Filing motion to open deposition, 25 ; ent'g same, 34, - - - -				59
"	27.	Filing 2 sets cross-interrogatories, - - - -				50
"	"	" deposition of Hale, - - - -				25
Mar.	10.	" motion to prove testimonio, 25, ent'g same, 34, - - - -				59
"	12.	Filing motion to produce, &c., ent'g same, 34 - - - -				59
"	18, 21, 22.	Filing 3 affidavits, - - - -				75
"	28.	Filing motion to prove documents, 25, ent'g same, 34, - - - -				59
"	"	Filing evidence to prove testimonio, 28, swearing 4 witnesses, - - - -				52
"	"	Filing contract between Mussina & Belden, - - - -				25
Ap'l	5.	" depo. of Jones, 25, motion, 25, ent'g same, 34, - - - -				84
Ap'l	11.	Filing motion to amend bill, 25, ent'g same, 34, - - - -	5	76		59
					Carried over,	36 03

	Am't bro't over,	-	-	36	03
Ap'l 12.	Filing objections to def's testimony,	-	-		25
" 14.	" " of Rosignol & Jones, 25,				25
" "	" commissioners' fee for affidavit,	-	-		50
" 15.	" statement of proceedings at hearing,				25
1852.					
Jan. 15.	Filing decree, 25, ent'g same, 1 33,	-	-	1	58
" "	" notice, with copy of decree,	-	-		25
May 21.	Issuing injunction,	-	-	1	33
" "	Filing copy of same,	-	-		25
June 18.	" memorandum of compl'ts costs, 25,				
	affi'at and certificate, 34,	-	-	4	00 59
July 27.	Filing act of compl'ts for translations, 25,				
	affi't, 34,	-	-		59
				41	89
Deposition No. 1.	{ Issuing commission to Otis and others,	67			
	{ Copy of interrogatories, 1 00,				
	{ Filing deposition, 25, 1 exhibit 25,	50			
				2	17
Deposition No. 2.	{ Issuing 2 letters rogatory, ent'g,				
	{ &c., 67c., - - -	1 34			
	{ Copy of int. 1 20, translation, 1 20,	2 40			
	{ " crozodo, 1 00, " 1 00,	2 00			
	{ Filing dep. 25, affi'at of Hale and				
	{ certif., 34, - - -	59			
				6	33
No. 3 & 4.	{ Filing 2 depositions of O'Docharty,	50			
	{ " 1 exhibit, - - -	25			
				75	
No. 5.	{ Issuing commission to Hunt, Otis,				
	{ and others, - - -	67			
	{ Filing deposition of Hale, 25, 11 ex-				
	{ hibits, 2 75, - - -	3 00			
	{ Copy of interrogatories, 1 00,	1 00			
				4	67
No. 6.	{ Filing deposition of Richardson, 25,	25			
	{ " 3 exhibits, 75,	75			
				1	00
No. 7.	{ Issuing commission to A. C. Allen,	67			
	{ Copy of interrogatories, - - -	1 50			
	{ Filing deposition of Treanor,	25			
				2	42
No. 8.	{ Issuing 4 Eng. letters rog., 4 do.				
	{ Span., 67 ea., - - -	5 53			
	{ Filing deposition, - - -	25			
	{ English copies of interrogatories,				
	{ 5 60, do. Span., 5 00 - - -	10 60			
	{ Filing 3 exhibits, - - -	75			
				17	13

No. 9.	Filing deposition, - - -	25	
	Issuing 2 letters rogatory, 1 Eng. and 1 Span., - - -	1 34	
	Eng. copy int. 2 00, Span. do. 2 00, - - -	4 00	5 59
No. 10.	Issuing 2 letters rogatory, 1 Eng. and 1 Span., - - -	1 34	
	Filing deposition, fil. exhibit, 25, - - -	50	
	Copy of int., Eng., 120, Spanish, 1 20, - - -	2 40	4 24
No. 11.	Issuing 2 letters, rogatory, English and Spanish, - - -	1 34	
	Copies of int., English and Spanish, - - -	4 80	
	Filing deposition - - -	25	6 39
No. 12.	Issuing 2 letters rogatory, Eng. and Span., - - -	1 34	
	Copy of interrogatories, Eng. and Span., - - -	5 00	
	Filing deposition, - - -	25	6 59
No. 13.	Issuing 2 letters rogatory, Eng. and Span., - - -	1 34	
	Copies of int., English and Spanish, - - -	3 00	
	Filing deposition, - - -	25	4 59
No. 14.	Issuing 2 letters rogatory, Eng. and Span., - - -	1 34	
	Copies of interrogatories, Eng. and Span., - - -	2 40	
	Filing 4 exhibits, 1 00, filing deposition, 25, - - -	1 25	4 99
No. 15.	Issuing 2 letters rogatory, English and Spanish, - - -	1 34	
	Copies of int., Eng. and Spanish, - - -	2 00	
	Filing 3 exhibits, - - -	75	
No. 16.	Filing deposition, - - -	25	4 34
	Issuing 2 letters rogatory, - - -	1 34	
	Copies of interrog., E. & S., - - -	2 00	
No. 17.	Filing deposition, - - -	25	3 59
	Issuing 2 letters rogatory, - - -	1 34	
	Copy of interrog., E. & S., - - -	2 00	
Filing depositions, - - -		25	2 59
			120 25

Orders.

1849.			
June 23.	Ent'g order setting aside pro confesso,	- -	67
" 30.	" of continuance, &c.,	- -	67
July 2.	" relating to letters rogatory,	- -	67
" 7.	" granting leave to amend,	- -	67
" 24.	" explanatory of order relating to let-		
	ters rog.,	- -	67
Aug. 1.	" granting leave to amend,	- -	67
" 4.	" to withdraw motion for injunction,	- -	67
" 8.	" relating to letters rogatory,	- -	67
" 8.	" granting leave to withdraw papers,		67
" 16.	" as to filing translations,	- -	67
Dec. 14.	" of continuance,	- -	27
1850.			
Jan. 24.	" requesting further security for costs,	- -	67
" 29.	" of continuance,	- -	27
Feb. 5.	" amending letters rogatory,	- -	67
June 17.	" setting cause for hearing,	- -	67

Amount carried over, - - - 129 50

1850.

Amount brought over, - - - 129 50

June 19. Entering order granting leave to amend - - 67

1851.

Jan. 22.	Entering order granting motion of 16 Jan., 1851,		67
Feb. 4.	" annulling another order,	- -	67
Mar. 13.	" granting leave to prove execution		
	of testimonio,	- -	67
" 26.	" relating to testimonio,	- -	67
" 26.	" requiring clerk to mark papers		
	" filed,"	- -	67

133 52

Rules.

1849.			
Feb.	Ent'g rule,	- -	67
June	" pro confesso,	- -	67
" 23.	" order to withdraw pro confesso,	- -	67
1850.			
Feb.	Ent'g notice to defendants,	- -	67
" 27.	" order appointing A. C. Allen commissioner,		67
June	" notice of filing interrog.,	- -	67
1851.			
Feb.	" order dismissing as to Fitzpatrick and		
	Shannon,	- -	67

137 71

Translations.

Filing 29 sets translations,	-	-	-	-	7	25
Filing 29 blank stamped sheets,	-	-	-	-	2	75
Final record,	-	-	-	-	546	23
Taxing costs and copy,	-	-	-	-		67
						694 60

RAFAEL GARCIA CAVAZOS and others }
 vs. }
 CHARLES STILLMAN and others. }

In Chancery.

Bill of Costs taxed in favor of Clerk against Defendants, Stillman, Belden, Mussina, and Shannon.

1849.

Jan. 29.	Filing motion to extend time to answer and ent'g					
	same, -	-	-	-		59
	" affidavit of Mussina, 25, swearing, 34	-	-	-		59
	" answer of Belden, 25, accompanying affidavit, 25,	-	-	-		50

July 9.	Filing answer of J. Mussina,	-	-	-		25
" 10.	" affidavit of Rice Garland,	-	-	-		25
July 24.	Filing agreement as to answers,	-	-	-		25
" 30.	" copy of order by consent,	-	-	-		25
Sept. 8.	" 5 sets interrogatories,	-	-	-	1	25
" 8.	" 6 cross " "	-	-	-	1	50
Nov. 5.	" answer of P. C. Shannon,	-	-	-		25

1850.

Feb. 18.	Filing revocation of power,	-	-	-		25
Ap'l —	" motion to extend time, 25, ent'g same, 34,	-	-	-		59
Oct. 19.	" agreement, -	-	-	-		25
" 26.	Issuing commission to take deposition,	-	-	-		67
	Filing 4 sets interrogatories,	-	-	-	1	00
" 30.	" 2 sets " "	-	-	-		50
" 31.	" 3 " " "	-	-	-		75

1851.

Jan. 18.	Filing motion to dismiss, 25, ent'g same, 34,	-	-	-		59
" 27.	" 3 sets interrogatories,	-	-	-		75
" 28.	" motion to open deposition, [25], ent'g same, 34,	-	-	-		59
" 29.	" agreement, -	-	-	-		25

Carried over, - - - - - 11 87

1851.	Am't brought over,	-	-	-	11	89
Feb. 26.	Filing answer of Belden,	-	-	-		25
Ap'l 2.	" motion to dismiss bill, 25, ent'g same, 34,	-	-	-		59

Ap'l 9.	Filing affidavit,	-	-	-	-	25
" "	" statement of evidence,	-	-	-	-	25
" 14.	" motion to exclude copy of testimonio,	-	-	-	-	25
	ent'g same, -	-	-	-	-	34
" 18.	" affidavit of Hord, -	-	-	-	-	25
" 12.	" motion 25, ent'g same, 34, -	-	-	-	-	59
Mar. 13.	" " 25, " 34, -	-	-	-	-	59
" "	" " 25, " 34, -	-	-	-	-	59
" "	" 17 sets translations, -	-	-	-	4	25
" 14.	" motion 25, ent'g same, 34, -	-	-	-	-	59
" 25.	" 1 set cross interrogatories, -	-	-	-	-	25
" 29.	" deed to Shannon, -	-	-	-	-	25
" 31.	" motion to suppress 25, ent'g same, 34, -	-	-	-	-	59
" "	" " 25, " 34, -	-	-	-	-	59

1849.

Orders.

Mar. 2.	Ent'g order fixing time to answer,	-	-	-	67
June 5.	" enlarging time to answer, -	-	-	-	67
" 30.	" withdrawing motion, -	-	-	-	67
" "	" continuing motion, -	-	-	-	67
July 3.	" fixing time to answer, 67, overruling motion, 67, -	-	-	-	1 34
July 24.	" as to answers of Fitzpatrick and Shannon, -	-	-	-	67
July 24.	" withdrawing motion as to answers, -	-	-	-	67
" "	" adopting answer of Belden, -	-	-	-	67
Aug. 7.	" as to translations, -	-	-	-	67

Am't carried over, - - - 29 04

1849.

Am't brought over, - - - 29 04

May 6.	Entering order enlarging time to take testimony, -	67
--------	--	----

1851.

Jan. 27.	Entering order granting leave to take out papers, -	67
Ap'l 26.	" to publish testimony, -	67
Mar. 15.	" overruling motion, -	67
" 26.	Entering order overruling objections to reading translations, -	67
Ap'l 8.	Entering order overruling motion to suppress depositions, -	67
" 12.	Entering order overruling motion to exclude testimony, -	67
" "	Entering order overruling motion as to jurisdiction, -	67
" "	Entering order overruling motion to suppress depositions, -	67

Rules.

2 68

1849 M'ch.	En'tg 4 appearances,	
1850 "	" ordering extending time to take testimony, -	67
	" appearance of Mussina, -	67

Depositions.

No. 18.	{	Issuing of commission to C. J. of Nueces Co.,	-	67
		Filing deposition of Blucher,	-	25
No. 19.	{	Issuing two letters rogatory, Eng. & Span.,	1 34	
		Copy of interrog., -	1 30	
		Filing deposition, -	25	
				2 89
No. 20.	{	Issuing 2 letters rogatory, -	1 34	
		Copies of interrog. 6 00, Eng. & Spain., -	6 00	
		Filing dep. 25, 2 exhibits 50, -	75	
				8 09
No. 21.	{	Issuing a commission to Reynolds,	-	67
		Filing deposition 25—32 exhibits,	-	8 00
				8 67
		Carried over,	-	59 66
		Am't brought over,	-	59 66
No. 22.	{	Issuing commission to Duval,	-	67
		Copy of interrog., -	-	1 47
		Filing Deposition 25, 1 exhibit 25,	-	50
		Record of proceedings,	-	371 83
				433 93

(5.)

RAFAEL GARCIA CAVAZOS and others }
 v. }
 CHARLES STILLMAN and others. }

Bill of costs taxed against complainants and in favor of defendants.
 Maria Angela Safen de Tarneva, Ramon Safen, Feliciano de Tigerina,
 and Josef Manuel Prieto.

1849.	March 6.	Filing motion 25, entering same 34,	-	59
	June 2.	" answer to rule,	-	25
	" 24.	" motion 25, entry 34,	-	59
	" 27.	" subpoena for witness,	-	34
	" 28.	" affidavit of Rice Garland,	-	25
	" "	" report of Master,	-	25
	" 29.	" affidavit of R. H. Hord,	-	25
	July 9.	" motion 25, ent'g same 34	-	59
1850.	April 1.	" answers of Prieto and Tigerina, 25 ea.,	-	50
		Entering 3 orders,	-	2 00
		Record of proceedings,	-	8 50
				\$14 16

(6.)

UNITED STATES DISTRICT COURT,
District of Texas.

RAFAEL GARCIA CAVAZOS }
v. } In Equity, No. 41.
CHARLES STILLMAN *et als.* }

Marshal's Cost.

For serving on Belden and Shannon,	-	-	\$4 00
" mileage, 410 miles at 5c.,	-	-	20 50
" service on Fitzpatrick,	-	-	2 00
" mileage, 410 miles at 5c.,	-	-	20 50
" summons 1 witness,	-	-	50
" serving injunctions on two parties,	-	-	4 00
" mileage, 410 miles at 5c.,	-	-	20 50
			72 00

JOS. BATES,
U. S. Marshal.

By A. H. CLEVELAND,
Dep. Marshal.

Aug. 23, 1852.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

RAFAEL GARCIA CAVAZOS *et als.* }
v. }
CHARLES STILLMAN *et als.* }

To Jacob Mussina, or to Messrs. Alexander and Atchison, solicitors and counsel for the above named defendant:—

Gentlemen: Please take notice that at the request of the counsel for the complainants, who waive notice on their part, and in accordance with the final decree in the above entitled cause, I shall proceed on Friday, the 18th day of June, 1852, at 9 o'clock A. M., at my office in the court-house of the U. S. District Court, to settle and tax the costs in the said cause, and shall continue in the taxation on that and the succeeding days until the same is completed, at which time and place you will please be present if you see cause.

JAMES LOVE,
Master in Chancery.

June 16, 1852.

Recorded on the 16th June, 1852, and executed on the same day, by giving D. D. Atchison a copy of the within notice.

J. BATES,

U. S. M.
By J. A. H. CLEVELAND,
Dep. Marshal.

DISTRICT COURT OF THE UNITED STATES,
District of Texas.

In Chancery.

Between

RAFAEL GARCIA CAVAZOS and others }
 and
 CHARLES STILLMAN and others. }

To Rafael Garcia Cavazos, Maria Josefa Cavazos, and Estafana Gozeascochea de Cortina, Complainants, and to Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, and Maria Angela or de los Angeles Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerina, and Josef Manuel Prieto, Defendants, or to Ebenezer Allen and William G. Hale, Solicitors for the Complainants, and William P. Ballinger, D. D. Atchison, Robert Howard, and Robert H. Hord, and M. M. Potter, Solicitors for the respective defendants.

Gentlemen: Please to take notice that on Tuesday, the 24th day of August, 1852, I shall proceed to make and file my report in the matter of the costs in the above entitled cause, which was referred to me by the decree of the Court therein, the said reference having been continued by me, from day to day, from the 16th day of June, 1852, and you can at that time attend if you see fit.

JAMES LOVE,
Master in Chancery.

I, John S. Jones, make oath and say that I served copies of the within notice on M. M. Potter, Robert Howard, and D. D. Atchison, Esquires, on the 23d inst.

JOHN S. JONES.

Sworn to and subscribed before me this 24th of August, 1852.

JAMES LOVE,
Master.

And afterwards, to wit, at the September Rules of said Court, during the same year, a rule was entered which is in the words and figures following, that is to say:

Rule.

RAFAEL GARCIA CAVAZOS and others }
 v.
 CHARLES STILLMAN and others. }

Jame Love, Esquire, Master in Chancery, on the day of , 1852, filed, in the Clerk's Office, his report upon the taxation of the costs in the above entitled cause, made in pursuance of the reference of the same to him by the decree in said cause rendered at the January Term, 1852; and notice is hereby given to the parties interested that the report has thus been made and filed, and that, after the usual

term has expired, process will issue for the collection of such costs as taxed.

JAMES LOVE,
Clerk.

September 6, 1852.

And afterwards, to wit, on the ninth day of March, in the year of our Lord one thousand eight hundred and fifty-four, in the Court here made an order in this cause, which is in the words and figures following, that is to say:

Order of Court.

MARIA JOSEFA CAVAZOS *et als.* }
v. }
CHARLES STILLMAN *et als.* }

On this day came on to be heard the motion of complainants on the 23d day of February ultimo, for leave to withdraw the original documents and copies on file in this cause, and making part of their proof, for the purpose of using said documents and copies as evidence in other causes. The Court being now sufficiently advised, it is ordered that plaintiffs have leave to withdraw the papers asked for in the motion upon leaving copies of the same in the office to be certified by the Clerk.

And afterwards, to wit, on the thirtieth day of July, in the year of our Lord one thousand eight hundred and fifty-six, came Patrick C. Shannon, by P. C. Tucker, Jr., his attorney, and took an appeal to the Supreme Court of the United States, which said appeal is in the words and figures following, that is to say:

Appeal by P. C. Shannon.

RAFAEL GARCIA CAVAZOS, MARIA JOSEFA CAVAZOS, his wife, and ESTAFANA GOZEASCOCHEA DE CORTINA, Complainants,
against

CHARLES STILLMAN, SAMUEL A. BELDEN, JACOB MUSSINA, PATRICK C. SHANNON, RICHARD FITZPATRICK, and MARIA ANGELA OF DE LOS ANGELES GARCIA SAFEN DE TARNEVA, RAMON SAFEN, FELICIANA DE TIGERINA, and JOSEF MANUEL PRIETO, Defendants.

IN UNITED STATES DISTRICT COURT AT GALVESTON,
in and for the District of Texas.

Chancery, No. 41.

And now, on this 30th day of July, A. D. 1856, comes one of the defendants in the above entitled cause, Patrick C. Shannon, by his Solicitor, Philip C. Tucker, Jr., and prays that an appeal be granted him therein, to the Honorable the Supreme Court of the United States of America, to the next regular term thereof, to be holden at Washington, in the District of Columbia. And said defendant files herewith his appeal bond, with proper sureties, as required by law and this Honorable Court.

PATRICK C. SHANNON,
per PHILIP C. TUCKER, JR.,
his Solicitor.

And afterwards, to wit, on the same day and year, came Patrick C. Shannon, by Philip C. Tucker, Jr., his attorney, and filed his appeal bond herein, which is in the words and figures following, that to say:

Appeal Bond.

THE UNITED STATES OF AMERICA,
District of Texas.

Know all men by these presents, that we, Patrick C. Shannon as principal, and Jeremiah Smith as surety, are held and firmly bound unto Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina, in the full and just sum of two hundred and fifty dollars, to be paid to the said parties or either of them, or their certain attorney, executors, administrators, and assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents, sealed with our seals and dated this 30th day of July, in the year of our Lord one thousand eight hundred and fifty-six.

Whereas, lately at a term of the United States District Court for the District of Texas, begun and holden at the City of Galveston, on the first Monday of January, in the year of our Lord one thousand eight hundred and fifty-two, in a suit depending in said Court between Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina were complainants, and Charles Stillman, Samuel A. Belden, Jacob Mussina, Patrick C. Shannon, Richard Fitzpatrick, W. W. Chapman, and Maria Angela (or de los Angeles) Garcia Safen de Tarneva, Ramon Safen, Feliciano de Tigerrina, and Josef Manuel Prieto were defendants, a decree was rendered against the said defendants, with the exception of Richard Fitzpatrick and W. W. Chapman, as appears by said final decree: And the said Patrick C. Shannon having filed, in the Clerk's office of said Court, at Galveston, on the 30th day of July, A. D. 1856, his petition for appeal therefrom to the Supreme Court of the United States, to reverse the decree in the aforesaid suit, and a citation directed to said defendants citing and admonishing them to be and appear at a Supreme Court of the United States to be held at Washington on the first Monday of December next:

Now the condition of the above obligation is such, that if the said Patrick C. Shannon shall fail to prosecute the said suit to effect, and answer all damages and costs if he fail to make his appeal good, then the above obligation to be void; otherwise to remain in full force and virtue.

[SEAL.]

PATRICK C. SHANNON,

[SEAL]

per PHILIP C. TUCKER, Jr.,
his Attorney.

[SEAL.]

J. SMITH.

Sealed and delivered in presence of

JO. EVE LOVE.

Approved by

[SEAL.]

JOHN C. WATROUS,
U. S. Judge.

And afterwards, to wit, on the fifteenth day of November of the same year, citation issued in the words and figures following, that is to say:—

Citation.

THE UNITED STATES OF AMERICA.

The President of the United States of America to Rafael Garcia Cavazos, Maria Josefa Cavazos, his wife, and Estafana Gozeascochea de Cortina, or Ebenezer Allen and William G. Hale, Attorneys of record of said parties, greeting:—

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at Washington on the first Monday of December next, pursuant to an appeal filed in the Clerk's office of the District Court of the United States for the District of Texas at Galveston, wherein Patrick C. Shannon is appellant, and you are appellees, to show cause, if any there be, why a decree rendered by said Court on the fifteenth day of January, in the year of our Lord one thousand eight hundred and fifty-two, against said appellant and others in said appeal mentioned, should not be reversed, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States. Done at the City of Galveston, this 15th day of November, A. D. 1856.

[L. S.]

JOHN C. WATROUS,
U. S. Judge.

We acknowledge lawful service for the appellees of the within citation, the same as if regularly served.

ALLEN & HALE,
Solicitors for Cavazos and others.

Nov. 15, 1856.

THE UNITED STATES OF AMERICA.

DISTRICT COURT OF THE UNITED STATES,
District of Texas, at Galveston.

To wit.

I, James Love, Clerk of the District Court of the United States for the District of Texas at Galveston, certify the foregoing two thousand and twelve pages to be a true and perfect transcript of the record and all the proceedings had in case number 41, in Chancery, wherein Rafael Garcia Cavazos and others are complainants, and Charles Stillman and others are defendants.

In testimony whereof, I hereunto set my hand and affix the seal of the said Court. Done at the City of Galveston this twentieth day of November, in the year of our Lord one thousand eight hundred

and fifty-six, and the eighty-first year of the Independence of the United States of America.

[SEAL.]

Filed 15th December, 1856.

JAMES LOVE, *Clerk*.

SUPREME COURT UNITED STATES—DECEMBER TERM, 1857.—No. 74.

PATRICK C. SHANNON, <i>Appellant</i> ,	}	<i>Appeal from the District Court of the United States for the District of Texas.</i>
<i>vs.</i>		
RAFAEL GARCIA CAVAZOS, MARIA JOSEFA CAVAZOS, his wife, and ESTEFANA GOZE-ASCOCHEA DE CORTINA.		

This cause came on to be heard on the transcript of the record from the District Court of the United States for the District of Texas ; and it appearing to the court here, upon the motion of Messrs. Hale and Robinson, of counsel for the appellees, that the decree of the said District Court in this cause is a joint decree against several co-defendants, and that Patrick C. Shannon alone has appealed therefrom, without any summons and severance from the rest of his co-defendants, it is the opinion of this court that the case is improperly brought here. On consideration whereof, it is now here ordered, adjudged, and decreed by this court that this appeal be and the same is hereby dismissed, with costs.

APRIL 19.

I, William Thos. Carroll, Clerk of the Supreme Court of the United States, do hereby certify that the preceding printed pages, numbered from one to one thousand and eighty-seven, contain a true copy of the transcript of the record filed in said Supreme Court by Patrick C. Shannon, the appellant, on the appeal taken by him in the above entitled case, and that the preceding manuscript page contains a true copy of the decree of said Supreme Court rendered in said cause at December Term, A. D. 1857, as the same remains on the records of said court.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, at the city of Washington, this 13th day [L. S.] of May, A. D. 1858.

WM. THOS. CARROLL,
Clerk Supreme Court United States.

and fifty-six, and the eighty-first year of the independence of the United States of America.

JAMES LOVE, Clerk.

Filed 15th December, 1856.
[Seal.]

SUPREME COURT UNITED STATES—THIRTIETH TERM, 1857—No. 71

ANTONIA DE GONZALEZ,
Plaintiff, vs.
PATRICK O. SHANNON, Defendant.
Appeal from the District Court of the United States for the District of Texas.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the District of Texas; and it appearing to the court here, upon the motion of Shannan, that the said Shannan, of counsel for the appellant, that the decree of the said District Court in this case is a joint decree against several co-defendants, and that Patrick O. Shannan alone has appealed therefrom, without any summons and service from the rest of his co-defendants, it is the opinion of this court that the case is improperly brought here. On consideration whereof, it is now fore ordered, adjudged, and decreed by this court that this appeal be and the same is hereby dismissed, with costs.
Affirmed.

I, William Thor Carroll, Clerk of the Supreme Court of the United States, do hereby certify that the preceding printed pages, numbered from one to one thousand and eighty-seven, contain a true copy of the transcript of the record filed in said Supreme Court by Patrick O. Shannan, the appellant, on the appeal taken by him in the above entitled case, and that the preceding manuscript page contains a true copy of the decree of said Supreme Court rendered in said cause at December Term, A. D. 1857, on the same terms as the records of said court.

In testimony whereof I hereto subscribe my name and affix the seal of said court, at the city of Washington, this 13th day of May, A. D. 1858.

WM. THOR CARROLL,
Clerk Supreme Court United States.
H. Rep. Com. 540—28

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SUPREME COURT OF THE UNITED STATES.

No. 74.

PATRICK C. SHANNON, APP'T,

vs.

RAFAEL GARCIA CAVAZOS & WIFE & AL.

APPEAL FROM THE DISTRICT COURT OF THE U. S. FOR THE DISTRICT OF TEXAS.

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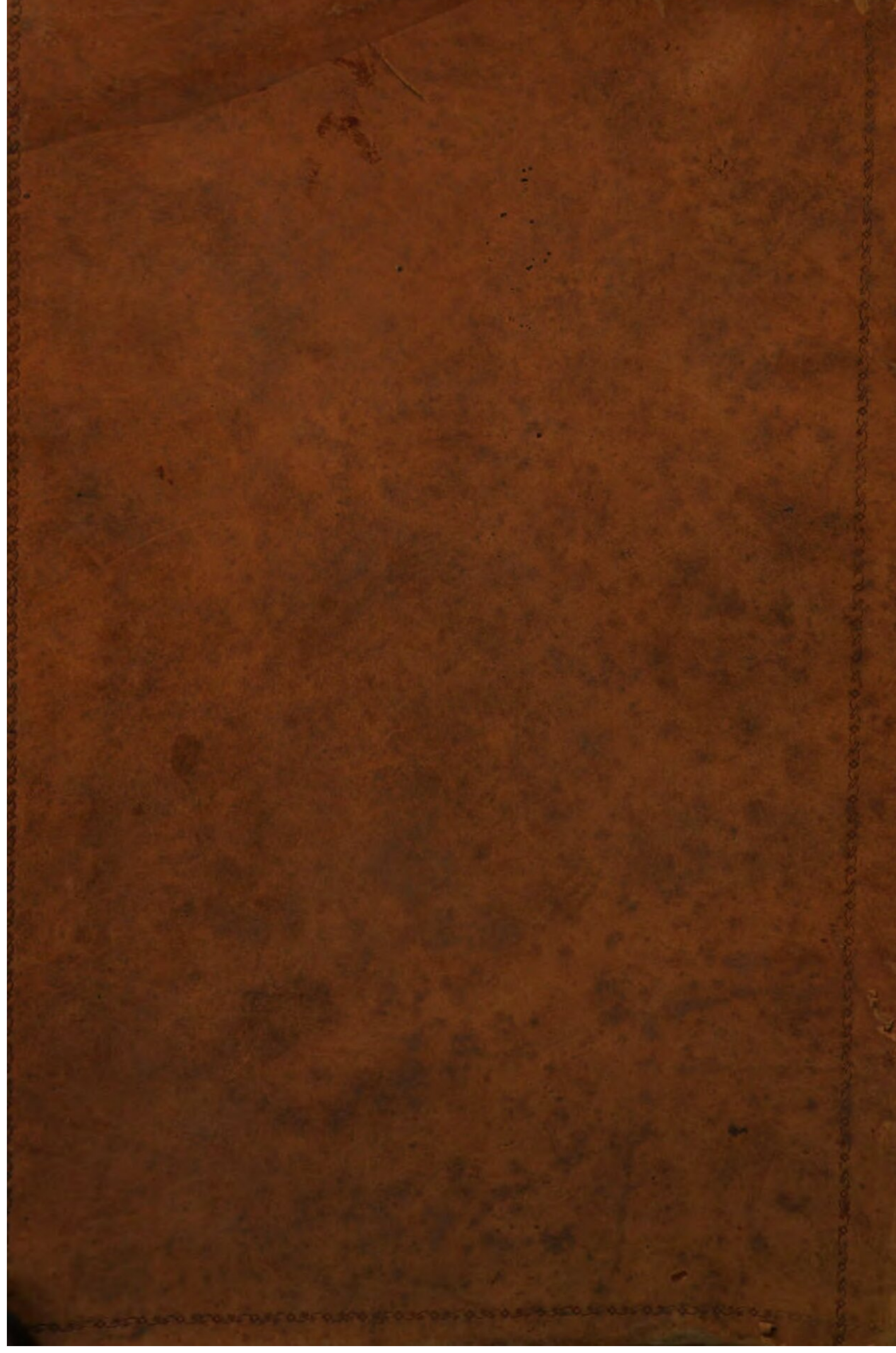
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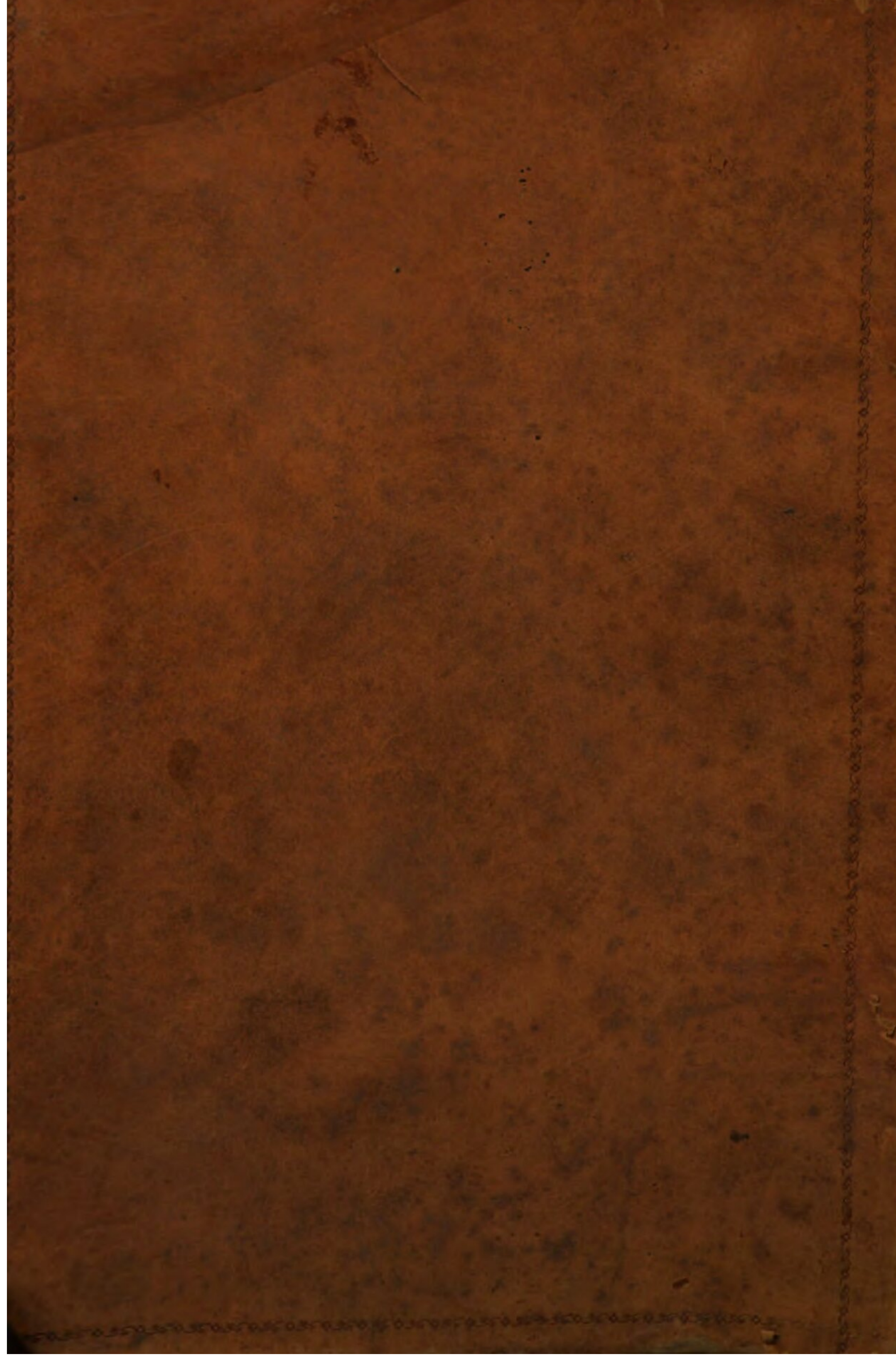
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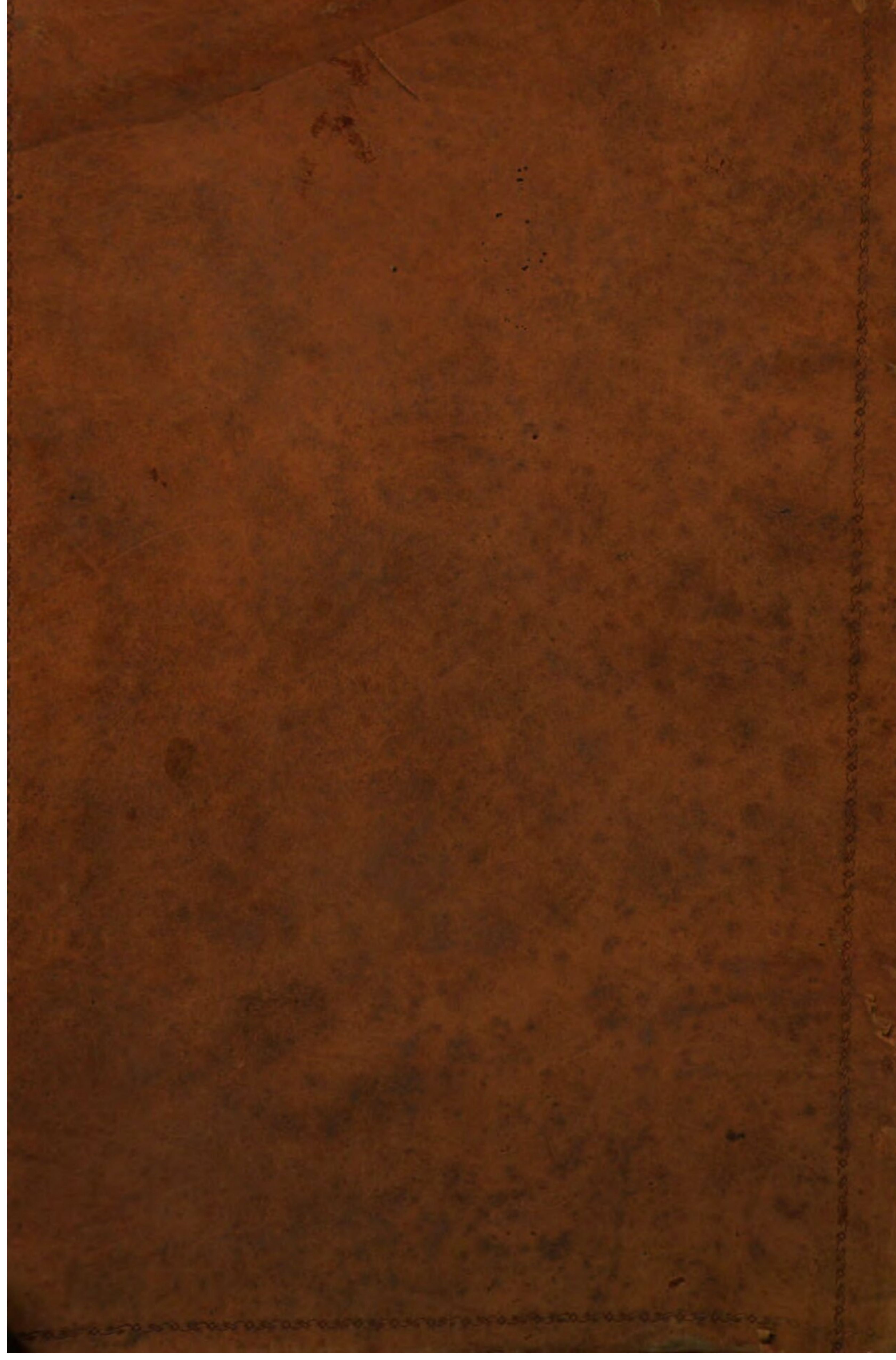
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